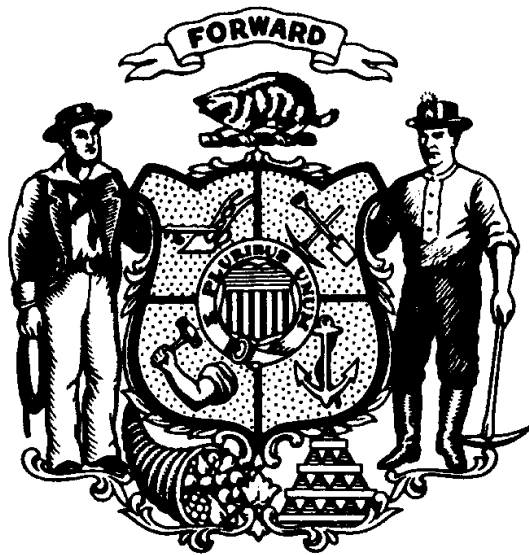


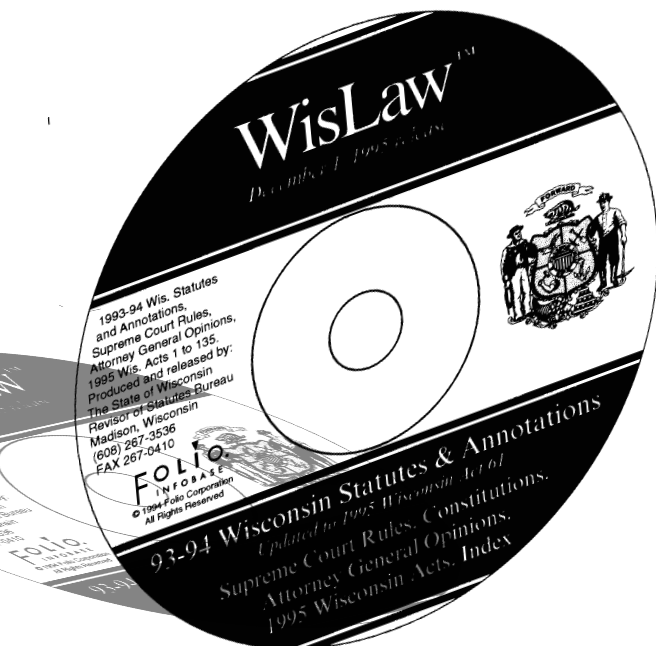
WISCONSIN ADMINISTRATIVE REGISTER

No. 485



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EMERGENCY RULES NOW IN EFFECT

Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health, safety or welfare necessitates its action in bypassing normal rule-making procedures.

Emergency rules are published in the official state newspaper, which is currently the Milwaukee Journal Sentinel. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.

Extension of the effective period of an emergency rule is granted at the discretion of the Joint Committee for Review of Administrative Rules under s. 227.24 (2), Stats.

Notice of all emergency rules which are in effect must be printed in the Wisconsin Administrative Register. This notice will contain a brief description of the emergency rule, the agency finding of emergency, date of publication, the effective and expiration dates, any extension of the effective period of the emergency rule and information regarding public hearings on the emergency rule.

EMERGENCY RULES NOW IN EFFECT (2)

Department of Agriculture, Trade & Consumer Protection

1. Rules were adopted amending **ch. ATCP 100 (note)** and creating **s. ATCP 100.76 (3m)** and **subchapter VI of ch. ATCP 100**, relating to price discrimination in milk procurement.

Finding Of Emergency

1) Each year, Wisconsin's approximately 27,000 dairy farmers sell approximately \$3 billion worth of milk to dairy plant operators. Milk sales represent the primary or exclusive source of income for thousands of Wisconsin farm families.

2) Currently, many dairy plant operators appear to be discriminating between milk producers in the amount paid for milk. Many operators appear to be paying higher prices to large producers which cannot be fully justified on the basis of milk quality or differences in procurement cost. Discrimination in milk prices may injure small milk producers and competing dairy plant operators, and may contribute to unwarranted concentration in the dairy industry.

3) Recently, discrimination in milk prices has reached historic highs, with some dairy plants paying volume premiums of up to 70 cents to 90 cents per hundredweight. In order to pay volume premiums at this level, a dairy plant operator must reduce the price paid to other producers. This affects the livelihood of many smaller milk producers, and may affect their ability to continue farming.

4) The state of Wisconsin Department of Agriculture, Trade and Consumer Protection is responsible for enforcing s. 100.22, Stats., which prohibits dairy plant operators from discriminating between milk producers in the prices paid to those producers. However, a dairy plant operator may defend a discrimination in prices if the operator can prove that the discrimination is based on differences in milk quality, is justified on the basis of differences in procurement costs, or is justified in order to meet competition.

5) The Department recently completed a survey of dairy plant pricing programs. The Department presented the survey results to the Board of Agriculture, Trade and Consumer Protection on November 14, 1994. The survey suggests that many dairy plant operators are paying discriminatory prices which cannot be justified on the basis of differences in milk quality or

procurement costs. Many of the surveyed dairy plant operators claimed that their discriminatory prices were justified in order to meet prices offered by competitors. Many operators stated that they were willing to reduce their discriminatory payments to levels that could be cost-justified if their competitors would do the same. But compliance by an individual dairy plant operator may put that operator in an untenable competitive position unless the operator's competitors also comply.

6) Enforcement of s. 100.22, Stats., is hampered by the lack of clear standards in the law. For example, there are no clear standards of cost-justification or "meeting competition." Currently, there are no rules interpreting s. 100.22, Stats. Clarifying rules would facilitate compliance and enforcement.

7) Effective January 1, 1996, federal milk marketing orders will be modified to incorporate a new system of milk component pricing. Dairy plant operators will be making changes to their payment schedules and computer programs in order to implement the new component pricing system. Although the marketing order changes do not address the issue of discrimination in milk pricing, they provide an opportunity for all dairy plant operators to modify their pay programs to comply with s. 100.22, Stats. Simultaneous compliance by dairy plant operators would minimize competitive losses by individual dairy plant operators who choose to comply.

8) In order to promote prompt and effective compliance with s. 100.22, Stats., and to minimize continuing harm to dairy plant operators and smaller milk producers, it is necessary to adopt rules interpreting s. 100.22, Stats., before January 1, 1996. Failure to adopt rules by January 1, 1996 will reduce the chance of securing industry-wide compliance with s. 100.22, Stats., and may therefore result in continuing harm to milk producers and competition.

9) The Department cannot adopt interpretive rules by normal rulemaking procedures by January 1, 1996. Pending the adoption of rules by normal rulemaking procedures, it is therefore necessary to adopt emergency rules to protect the public welfare.

Publication Date: January 1, 1996
Effective Date: January 1, 1996
Expiration Date: May 30, 1996
Hearing Date: February 1, 1996

2. Rules were adopted creating **s. ATCP 21.15**, relating to potato late blight.

Finding Of Emergency

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection finds, pursuant to s. 224.24 (1), Stats., that an emergency rule is necessary to preserve the public peace, health, safety or welfare. The following circumstances justify the emergency rule:

1) In recent years, new forms of the highly virulent "Irish potato famine" fungus, *Phytophthora infestans*, have caused increasingly devastating losses to potato and tomato growers in the United States and Canada. The fungus causes a disease of potato plants which is commonly known as "late blight."

2) The National Association of State Departments of Agriculture reports that late blight epidemics in 1992, 1993 and 1994 were the worst in decades, and that some individual farm losses have amounted to hundreds of thousands of dollars in a single year. The University of Wisconsin estimates that Wisconsin growers lost up to \$10 million in 1994 and \$6 million in 1995 due to late blight.

3) The potato industry is one of Wisconsin's most important agricultural industries. In 1995, Wisconsin was the 3rd leading state in the nation in potato production. Cash receipts to Wisconsin potato growers totalled over \$150 million in 1995. Potatoes are an important food source for the people of Wisconsin and other states. Potato production also supports important processing and distribution industries in Wisconsin. The uncontrolled spread of late blight would have a devastating impact on Wisconsin potato growers, and would seriously affect the public health, safety and welfare.

4) Late blight appears on potato plant leaves, stems and tubers. It causes foliar lesions which are followed by severe defoliation in wet weather. It can

also reduce marketable yield by directly infecting and rotting potato tubers. Once late blight appears, it spreads rapidly and can cause total crop loss.

5) Late blight fungal spores can be carried to other plants by many things, including wind, rain, machinery, workers, wildlife and infected seed potatoes. The University of Wisconsin reports that spores can be transported over 25 miles by storms.

6) There are very few registered fungicides in the United States that are effective in controlling the new forms of late blight fungus.

7) Because of the lack of registered fungicides, and the ease with which the late blight fungus spreads, potato growers must mitigate the spread of the disease by removing sources of the overwintering inoculum. Among other things, potato growers must properly dispose of potato cull piles and potato plants which germinate from waste potatoes.

8) If individual potato growers fail to implement necessary cultural practices to mitigate the spread of late blight, that failure will have a potentially devastating impact on other growers and on the Wisconsin potato industry as a whole.

9) In order to ensure that growers take adequate steps to mitigate the spread of late blight, it is necessary to adopt rules that spell out critical problems and establish sanctions for growers who fail to comply. Because of the imminent threat of harm to the potato industry, rules are urgently needed prior to the 1996 planting and growing season.

10) Under normal rulemaking procedures, it is not possible for the Department to adopt rules prior to the 1996 planting and growing season. Pending the adoption of permanent rules, the following emergency rules are needed to protect the public health, safety and welfare, and to mitigate the spread of late blight during the 1996 planting and growing season.

Publication Date: May 1, 1996
Effective Date: May 1, 1996
Expiration Date: September 28, 1996
Hearing Date: May 30, 1996

EMERGENCY RULES NOW IN EFFECT

Department of Corrections

Rules were adopted revising **ch. DOC 328**, relating to the procedure and timing for collecting fees charged for supervision.

Exemption From Finding of Emergency

In section 6360 in 1995 Wis. Act 27, the Legislature directed the Department to promulgate rules required under ss. 304.073 (3) and 304.074 (5), Stats., for supervision fees charged to probationers and parolees, by using the emergency rule-making procedures under s. 227.24, Stats., but without having to make a finding of emergency. These rules will remain in effect until replaced by permanent rules.

Analysis prepared by the Department of Corrections

This rule-making order implements ss. 301.08 (1) (c), 304.073 and 304.074, Stats., establishing the procedure and timing for collecting fees charged for supervision.

Currently, offenders on probation or parole pay no supervision fee. Through this emergency rule making order, the Department will charge offenders on probation and parole a supervision fee. Offenders under administrative or minimum supervision and supervised by the Department will pay a fee sufficient to cover the cost of supervision. Offenders under medium, maximum, or high risk supervision will pay a supervision fee based on the ability to pay.

These rules exempt an offender who is supervised by another state under an interstate compact from paying a Wisconsin supervision fee. An offender who is serving a concurrent sentence of prison and probation or parole is not required to pay the supervision fee while in prison.

These rules authorize the Department to contract with a vendor to provide monitoring of an offender. Offenders who are on monitoring are required to

pay a fee sufficient to cover the cost of monitoring, supervision by the Department and cost of administering the contract.

These rules require the Department to establish the rate for supervision and monitoring fees and to provide the offender with the supervision fee schedule.

These rules require offenders to comply with the procedures of the Department or vendor for payment of the supervision or monitoring fee. These rules require the Department to provide the offender with a copy of the procedures for paying the supervision or monitoring fee. These rules permit an offender to pay the supervision fee in monthly installments or in a lump sum.

These rules permit the Department to take certain action for the offender's failure to pay the supervision or monitoring fee. The actions include counseling, wage assignments, review of supervision level, recommendation for revocation of probation or parole and any other appropriate means of obtaining the supervision or monitoring fee.

Publication Date: December 21, 1995
Effective Date: January 1, 1996
Expiration Date: May 30, 1996
Hearing Date: February 13, 16 & 22, 1996

EMERGENCY RULES NOW IN EFFECT

Development

Rule adopted amending **ss. DOD 6.18 (1) and 6.32 (2)**, relating to the community development block grant portion of the Wisconsin development fund.

Finding of Emergency

The Department of Development finds that an emergency exists and that the attached rule is necessary to the immediate preservation of the public peace, health, safety and welfare. A statement of the facts constituting the emergency is:

On the evening of January 5, 1996, a fire broke out at Stella Foods' cheese processing and packaging plant in the Village of Lena, Wisconsin, resulting in more than \$15 million in property damage, more than \$10 million in business interruption losses, and the loss of more than 300 full-time equivalent jobs for that small rural community. As a result of the fire, 70 percent of Stella Foods' plant was destroyed, all dairy and cheese processing ground to a halt, and approximately 350 dairy farmers had to find alternative facilities to receive and process their dairy products.

The scope of the Stella Foods fire and resulting damages was exacerbated by the lack of adequate water supply and pressure to fight the fire. To address various water supply, waste water treatment and insurance needs, and to persuade Stella Foods to reconstruct the Lena plant and rehire more than 300 former employees, the Village of Lena needs to replace its 50-year old 40,000 gallon water tank with a new 300,000 gallon water tank at an estimated cost of approximately \$890,000, and to upgrade its current waste water treatment plant at an estimated cost of approximately \$900,000. Adoption of these emergency rules will allow the Department of Development to provide the Village of Lena with the financial assistance to address the foregoing problems.

Publication Date: April 3, 1996
Effective Date: April 3, 1996
Expiration Date: August 31, 1996
Hearing Date: May 8, 1996

EMERGENCY RULES NOW IN EFFECT (2)

Emergency Response Board

1. Rules adopted creating **ch. ERB 5**, relating to a grant for local emergency planning committees.

Exemption From Finding of Emergency

The Legislature in section 10(m) of 1995 Wis. Act 13 directed the Board to promulgate rules under s. 166.20 (2) (bg), Stats., as created by this Act, to establish an amount that may be an eligible cost for computers in an emergency planning grant under s. 166.21 (2) (bm), Stats., but without having to make a finding of emergency. The rule will remain in effect until replaced by permanent rules, but not to exceed the time authorized under s. 227.24 (1) (c) and (2), Stats.

Analysis

Statutory Authority: ss. 166.20 (2) (b), (bg), 166.21 (2), 227.11 (2) (a)

Statutes Interpreted: ss. 166.20 (2) (bg), (br), 166.21 (1), (2), (3)

Plain Language Summary

The computer grant rule establishes guidelines for the computer grant to county Local Emergency Planning Committees. The rule requires the State Emergency Response Board to establish grant procedures to implement this rule. The rule allows Local Emergency Planning Committees to purchase computer equipment under this grant for specific use within the county emergency management program to comply with state and federal planning requirements.

The rule requires that matching costs for computer equipment are to be based on a 4-year grant cycle. For one year of the 4-year grant cycle, up to a maximum of \$6,000 of the cost of computer equipment shall be eligible for reimbursement. For each of the remaining 3 years of the 4-year grant cycle, up to a maximum of \$2,000 of the cost of the computer equipment shall be eligible for reimbursement.

Publication Date: December 5, 1995

Effective Date: January 1, 1996

Expiration Date: May 30, 1996

Hearing Date: March 28, 1996

2. Rules adopted revising **ch. ERB 4**, relating to a fee for transporting hazardous material.

Finding of Emergency

The State Emergency Response Board finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health safety or welfare. A statement of the facts constituting the emergency is:

It is necessary to provide adequate protection against the risks to life and property inherent in the transportation of hazardous materials in commerce.

This emergency rule is being promulgated to allow continuation of the Wisconsin hazardous materials transportation registration program established in s. 166.20(7g), Stats. The State Emergency Response Board (SERB) promulgated a rule, **ch. ERB 4**, to implement the program. The original rule had a sunset date of June 30, 1995. A revised **ch. ERB 4** was promulgated December 1, 1995, but was superseded by statutory changes to s. 166.20(7g), Stats., enacted in the Department of Transportation (DOT) biennial budget.

The emergency rule will enable the DOT to collect registration fees for the billing period July 1, 1995 through June 30, 1996. This was agreed upon as a necessary step by several agencies including SERB, Division of Emergency Government and DOT in consultation with Legislative Council and Joint Committee For Review of Administrative Rules staff. Through this collection, DOT will meet the statutory requirement to collect an annual registration fee for the transport of hazardous materials. These fees are deposited to the State Transportation Fund to partially offset the DOT appropriations funding the level A and level B hazardous materials emergency response teams in Wisconsin. The legislature has supported the emergency response team system in Wisconsin by adopting legislation to authorize teams and fund them through a combination of fees and the State Transportation Fund.

The SERB, the Department of Military Affairs—Division of Emergency Government and the Department of Transportation are jointly developing a permanent rule to reflect the statutory fee structure enacted by the legislature

in the DOT 1995–97 biennial budget. It is expected a revised permanent rule will be promulgated later this year.

Publication Date: February 23, 1996

Effective Date: February 23, 1996

Expiration Date: July 22, 1996

Hearing Date: April 2, 1996

EMERGENCY RULES NOW IN EFFECT

Department of Employment Relations

A rule was adopted creating **s. ER 29.03 (8) (bm)**, relating to the rate of pay as a result of voluntary demotions by employees who are notified they may be subject to layoff.

Finding of Emergency

The Department of Employment Relations finds that an emergency exists and that rules are necessary for the immediate preservation of the public peace, health, safety of welfare. A statement of the facts constituting the emergency is:

Many state agencies are undergoing reorganizations, either at the directive of the Governor and State Legislature or on their own initiative. These organizational changes are occurring to promote efficient and effective administration of state agencies, improve delivery of services and improve coordination of similar programs. Numerous permanent positions in the classified civil service are being restructured because of a reduction in force due to a lack of work or funds or owing to material changes in duties organization. Incumbents of those positions will soon face critical career decisions and alternatives that involve new duties, classification and/or physical location of their work site.

This emergency rule allows employees who have been notified that they are "at risk" of layoff to maintain their current rate of pay if they voluntarily demote under certain circumstances within an agency. "At risk" means the employee has received written notification that layoffs may occur in the agency and the employee's position may be affected by they layoffs. The employee may be allowed to retain his/her present rate of pay only if the demotion is to a position no more than three pay ranges or counterpart pay ranges lower than the pay range of the position from which the employee is demoting.

If the option of maintaining the employee's pay rate is not available to the employee and the agency, employees will be forced to choose between options that may result in a reduction in pay, transfer or demotion to a less desirable location or position, or the employee may eventually be laid off. These consequences may adversely affect employee morale, undermine the efficient use of human resources and reduce the benefits of the agency reorganization. Retention of an employee's current rate of pay can be used by the agency as an incentive for employees to move to positions they might otherwise not choose.

For these reasons and because employee layoffs may occur before the Department could promulgate permanent rule, the Department believes a finding of emergency is warranted to preserve the welfare of individual employees and the civil service system.

Publication Date: March 18, 1996

Effective Date: March 18, 1996

Expiration Date: August 15, 1996

Hearing Date: May 3, 1996

EMERGENCY RULES NOW IN EFFECT

Wisconsin Gaming Commission

A rule was adopted amending **s. WGC 24.13 (1) (d)**, relating to simulcasting fees.

Finding of Emergency

The Wisconsin Gaming Commission finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace,

health, safety or welfare. A statement of the facts constituting the emergency is:

The previous fee of \$50 per performance made simulcasting cost prohibitive, and as a result, prevented the expansion of employment and residual economic benefits. The emergency rule will allow for the increased economic activity.

Publication Date: March 1, 1996
Effective Date: March 1, 1996
Expiration Date: July 29, 1996
Hearing Date: April 15, 1996

EMERGENCY RULES NOW IN EFFECT

Health and Social Services

(Community Services, Chs. HSS 30--)

Rules were adopted creating **ch. HSS 38**, relating to treatment foster care for children.

Exemption From Finding of Emergency

The Legislature in s. 182 (1) of 1993 Wis. Act 446 directed the Department to promulgate rules under s. 48.67 (1), Stats., as amended by Act 446, for licensing treatment foster homes, to take effect on September 1, 1994, by using the emergency rule-making procedures under s. 227.24, Stats., but without having to make a finding of emergency. They will remain in effect until replaced by permanent rules.

Analysis prepared by the Department of Health and Social Services

This rule-making order implements s. 48.67 (1), Stats., as amended by 1993 Wis. Act 446, which directs the Department to promulgate rules establishing minimum requirements for issuing licenses to treatment foster homes, including standards for operation of those homes.

Treatment foster care is a family-based and community-based approach to substitute care and treatment for children who are medically needy or emotionally disturbed and for some developmentally disabled children, and could be an alternative to institutionalization for some children. Treatment foster care is provided in a foster home by foster parents who meet education and training requirements which exceed the requirements for regular foster care, and by social service, mental health and other professional staff.

A number of public and private agencies have recently begun providing "treatment foster care," but since there are no standards currently for this type of care, those programs vary considerably in the type and quality of services they provide. These rules establish minimum standards that agencies, professional staff and foster parents would have to meet in order to claim that they are providing treatment foster care.

The rules require treatment foster homes to comply with ch. HSS 56 for regular foster homes except when there is a conflict between a provision of these rules and ch. HSS 56, in which case these rules take precedence.

The rules cover making application to a licensing agency for a treatment foster home licensee, licensee qualifications, licensee responsibilities, respite care for foster parents, responsibilities of the providing agency, the physical environment of a treatment foster home, care of the children and training for treatment foster parents.

Publication Date: September 1, 1994
Effective Date: September 1, 1994
Expiration Date: 1993 Wis. Act 446, s. 182
Hearing Date: January 24, 25 & 26, 1995

EMERGENCY RULES NOW IN EFFECT (2)

Health and Social Services

(Health, Chs. HSS 110--)

1. Rules were adopted creating **ch. HSS 182**, relating to lead poisoning prevention grants.

Exemption From Finding of Emergency

The Legislature in s. 9126 (27x) (b) of 1995 Wis. Act 27 directed the Department to promulgate rules required under s. 254.151, Stats., as created by Act 27, using emergency rulemaking procedures, but exempted the Department from the requirement under s. 227.24 (1) and (3), Stats., to make a finding of emergency. They will take effect on publication in the Milwaukee Journal Sentinel.

Analysis

These rules implement the requirement in s. 254.151, Stats., as amended by 1995 Wis. Act 27, that the Department establish criteria by rule for the award of grants to fund educational programs, including programs for health care providers, about the dangers of lead poisoning or exposure to lead; to fund lead poisoning or lead exposure screening, care coordination and follow-up services, including lead inspections, for or on behalf of children under the age of 6, not covered by third-party payers; to fund administration and enforcement activities of local health departments that, under s. 254.152, Stats., are designated by the Department to be its agents for administration and enforcement of ss. 254.11 to 254.178, Stats.

The grant program was established in mid-1994. The requirement that the Department's criteria for awarding grants be set out in rules was added by Act 27 in mid-1995. The amount available in the appropriation for grant awards is \$879,000 for each year of the 1995-97 biennium.

The rules identify who may apply for a grant, describe the application process, provide for preliminary review of applications by the Department for compliance with format and content requirements set out in the relevant request for proposals (RFP), provide for evaluation of applications by one or more review committees appointed by the Department and specify 14 criteria for use in that final review, note that the Department will award grants based on the recommendations of the review committee or committees and taking into consideration other specified factors and describe the awards process and conditions that are imposed when grants are awarded.

Publication Date: December 5, 1995
Effective Date: December 5, 1995
Expiration Date: May 4, 1996
Hearing Date: January 16, 1996
Extension Through: July 2, 1996

2. Rules adopted creating **ss. HSS 111.04 (2m) and 112.04 (3m)**, relating to authorized actions of emergency medical technicians--intermediate and paramedic.

Finding of Emergency

The Department of Health and Social Services finds that an emergency exists and that the adoption of rules is necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

Actions that emergency medical technicians (EMTs) are authorized to carry out in providing emergency medical care in prehospital and interfacility settings are now specified in s. 146.50 (6m), Stats. A recent session law, 1993 Wis. Act 251, repealed that statute effective January 1, 1996 and directed the Department to have rules in place on that date that specify what those actions are. The Department has separate chapters of rules for licensing EMTs--basic, EMTs--intermediate and EMTs--paramedic. This emergency order amends ch. HSS 111, rules for licensing EMTs--intermediate, and ch. HSS 112, rules for licensing EMTs--paramedic, to specify the actions that EMTs--intermediate and EMTs--paramedic may carry out.

Through separate permanent rulemaking orders, the Department is revising chs. HSS 111 and 112 in their entirety in order to specify the

authorized actions of EMTs—intermediate and EMTs—paramedic and, at the request of the new Emergency Medical Services Board under s. 146.58, Stats., to update the chapters. However, those rulemaking orders have not yet been transmitted to the Legislative Council for review and therefore will not likely take effect until July 1, 1996 at the earliest. Consequently, the Department, in order to have the rules that specify the authorized actions of EMTs—intermediate and EMTs—paramedic in effect by January 1, 1996, when s. 146.50 (6m), Stats., will be repealed, is publishing the authorized actions subsections of the proposed revised permanent rules by this emergency order. This must be done because s. 146.50 (6n), Stats., which takes effect on January 1, 1996, provides that EMTs—intermediate and EMTs—paramedic may undertake only those actions that are authorized in rules promulgated by the Department. If those rules are not in effect on that date, ambulance services will not be able to provide emergency medical services using EMTs—intermediate or EMTs—paramedic and consequently there will be reduced availability of emergency medical services and a threat to public safety.

Publication Date: December 27, 1995
Effective Date: January 1, 1996
Expiration Date: May 30, 1996
Hearing Date: March 1 & 8, 1996

EMERGENCY RULES NOW IN EFFECT (2)

Health & Social Services

(Economic Support, Chs. HSS 200–)

1. Rules adopted revising **ch. HSS 201**, relating to a benefit cap pilot project under the AFDC program.

Exemption From Finding of Emergency

The Legislature in s. 12 (1) of 1995 Wis. Act 12 permitted the Department to promulgate the rules required under s. 49.19 (11s), Stats., as created by Act 12, by using emergency rulemaking procedures but without having to make a finding of emergency. They will take effect on January 1, 1996.

Analysis Prepared by the Department of Health & Social Services

Under s. 49.19, Stats., a family can apply and be determined eligible for the Aid to Families with Dependent Children (AFDC) program. If a family is determined eligible, the AFDC benefit amount is based, in part, on family size. The maximum amount of AFDC benefits a family can receive currently increases when an additional child is born.

On January 1, 1996, Wisconsin will implement the AFDC Benefit Cap Demonstration Project, authorized under s. 49.19 (11s), Stats., as created by 1995 Wis. Act 12. The purpose of this demonstration is to test whether eliminating the increase in the AFDC grant when an additional child is born will encourage families on welfare to delay having more children until they are financially able to support them.

Under the demonstration project, a family will not receive an automatic increase in the AFDC grant when an additional child is born. Starting on January 1, 1996, a child born to a current or new recipient more than ten months after first receipt of benefits will be counted in the family size for AFDC assistance standard purposes but not for purposes of benefit determination. An exception will be made for a child born as a result of rape or incest. The benefit cap will first apply to children born on or after November 1, 1996. A child born on or after that date, although not counted in the family size for the purpose of determining the amount of the grant, will be counted for Medical Assistance and food stamp purposes, and the family will be entitled to receive other social service assistance for the child.

These are the rules for implementation of the AFDC Benefit Cap Demonstration Project. The rules describe how the Department will choose

AFDC recipients who must participate in the demonstration, and outline the Department's responsibilities in administering the demonstration project.

Publication Date: December 27, 1995
Effective Date: January 1, 1996
Expiration Date: May 30, 1996
Hearing Date: February 16, 1996

2. Rules were adopted revising **chs. HSS 201 and 206**, relating to pay for performance demonstration project under the AFDC program.

Exemption From Finding of Emergency

The Legislature in s. 12 (2) and (3) of 1995 Wis. Act 12 permitted the Department to promulgate the rules required under s. 49.193 (3m) and (9m), Stats., as created by Act 12, by using emergency rulemaking procedures but without having to make a finding of emergency. They will take effect on March 1, 1996.

Analysis Prepared by the Department of Health and Social Services

Under s. 49.19, Stats., families inquiring about the Aid to Families with Dependent Children (AFDC) program are immediately encouraged to apply for assistance without exploring possible alternatives to welfare. Once determined eligible, many families come to consider the AFDC program a program of long-term financial support, sometimes spanning generations. Yet AFDC was originally meant to be a temporary, emergency program.

Wisconsin has obtained approval from the Food and Consumer Service of the U.S. Department of Agriculture and from the Administration for Children and Families of the U.S. Department of Health and Human Services to conduct a Pay for Performance (PFP) demonstration project beginning March 1, 1996. The major objective of the Pay for Performance demonstration project is to focus on freedom from public assistance by encouraging immediate attachment to the work force and helping families explore alternatives to AFDC before becoming dependent on AFDC. The demonstration project will be conducted statewide except in Dane, Dodge, Jefferson and Waukesha counties. In those counties individuals may be assigned to a control group which will be exempt from the demonstration project requirements to permit evaluation of the demonstration project. Statutory authority for the Department to operate two related demonstration projects, Self-Sufficiency First and Pay for Performance, was included in 1995 Wis. Act 12. Under the federal government's terms and conditions of approval for demonstration project, the Department is now calling the combined project Pay for Performance.

The first component of the Pay for Performance demonstration project encourages alternatives to AFDC through services of a financial planning resource specialist (FPRS) and up-front job search. This component is directed at helping applicants identify alternatives to AFDC, facilitating immediate orientation and referral to the Job Opportunities and Basic Skills (JOBS) program and requiring job search before receiving AFDC. Cooperation is made an AFDC eligibility requirement. An individual who fails without good cause to cooperate with these requirements will be ineligible to receive AFDC benefits for himself or herself and his or her family.

For an individual who becomes an AFDC recipient after fulfilling the applicant job search requirements, there is a second component of the Pay for Performance demonstration project. This requires the JOBS case manager to design an employability plan for the recipient that focuses on employment at the earliest opportunity and requires the recipient to participate in a set number of hours of participation in JOBS program activities or work to maintain AFDC eligibility. Failure, without good cause, to maintain participation as assigned will result in sanctions in the next possible month based on the number of hours missed without good cause multiplied by the federal minimum wage. Failure to participate in at least 25% of the assigned hours will result in no AFDC benefits being paid for that month and a reduction to \$10 in food stamp benefits.

These are the rules for the implementation of the Pay for Performance demonstration project.

Publication Date: March 1, 1996
Effective Date: March 1, 1996
Expiration Date: July 29, 1996
Hearing Date: April 16, 1996

EMERGENCY RULES NOW IN EFFECT

Industry, Labor & Human Relations

(Uniform Dwellings, Chs. ILHR 20–25)

Rules adopted revising **chs. ILHR 20 and 21**, relating to one- and two-family dwellings constructed in flood hazard zones.

Finding of Emergency

The Department of Industry, Labor and Human Relations finds that an emergency exists and that the adoption of the rule is necessary for the immediate preservation of public health, safety and welfare. The facts constituting the emergency are as follows:

The Federal Emergency Management Agency (FEMA) has informed some municipalities that it will no longer allow variances to a local ordinance that prohibits the construction of homes in flood fringe areas where the foundation extends below the base flood elevation. FEMA regulations allow this type of construction in some locations but require the construction to meet a suitable building code. The Uniform Dwelling Code, which regulates new home construction in Wisconsin, has never addressed this issue. FEMA's actions have halted some residential projects, causing serious financial hardship for those affected Wisconsin builders and residents.

The proposed rules add requirements to the Uniform Dwelling Code for construction in flood fringe areas in order to meet FEMA requirements. The primary source of these rules is the National Building Code published by Building Officials and Code Administrators International, Incorporated (BOCA).

Publication Date: May 8, 1996
Effective Date: May 8, 1996
Expiration Date: October 5, 1996

EMERGENCY RULES NOW IN EFFECT

Industry, Labor & Human Relations

(Building & Heating, etc., Chs. ILHR 50–64)
 (Multi-Family Dwellings, Ch. ILHR 66)

Rule adopted delaying the effective date of a rule revision to portions of **chs. ILHR 50 to 64 and 66**, relating to energy efficiency.

Note: A lawsuit has been filed challenging the validity of this emergency rule action.

Finding of Emergency

The Department of Industry, Labor and Human Relations finds that an emergency exists and that the adoption of a rule is necessary for the immediate preservation of public health, safety and welfare. The facts constituting the emergency are as follows:

1. On August 8, 1995, the Department adopted revised rules relating to ventilation and energy conservation in public buildings and places of employment. The purpose of these rules was to improve indoor air quality in buildings and to comply with the federal Energy Policy Act of 1992 which requires all states to revise their commercial building codes to meet or exceed the American Society of Heating, Refrigerating and Air-Conditioning Engineers/Illuminating Engineering Society (ASHRAE/IES) standard 90.1–1989. The rules went into effect on April 1, 1996.

2. Information has been recently provided to the Department that indicates that two of the provisions of the rules will cause excessive costs for building owners without commensurate benefit.

3. The emergency rule is being promulgated to avoid economic hardship caused by imposing unnecessary building construction and operating costs on building owners and operators.

Emergency Rule Analysis

The emergency rule will delay the effective date of the Energy Conservation related and Heating, Ventilating and Air Conditioning related rules for one year to give the Department and its advisory committee time to study the effect of the rules and make any necessary changes.

Publication Date: April 6, 1996
Effective Date: April 6, 1996
Expiration Date: September 3, 1996
Hearing Date: May 28, 1996

EMERGENCY RULES NOW IN EFFECT

Industry, Labor & Human Relations

(Unemployment Compensation, Chs. ILHR 100–150)

Rules adopted creating **s. ILHR 127.035**, relating to a limited waiver of work search requirement.

Finding of Emergency

The department of industry, labor and human relations finds that an emergency exists within the state of Wisconsin and that a rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

Under s. 108.04(2)(b), Stats., the requirements for searching for work, as a condition of eligibility for unemployment insurance benefits, are to be prescribed by rule of the department. The statute further provides that the department may by general rule waive those requirements under certain conditions to be stated by the department. ILHR 127.02(2) allows the department to waive a claimant's work search requirement if she or he has been laid off from work but has a reasonable expectation of reemployment by an employer within 12 weeks after the week in which a claim is filed for unemployment insurance benefits.

On or about January 6, 1996, the Stella Foods plant in Lena, WI burned down. As a result, most of the workers were temporarily laid off. The company committed to rebuilding and reopening the plant. 35% of the plant was reopened after cleaning and about half the workers were recalled. The other 65% of the plant is being rebuilt. The company originally expected to be able to recall all or most workers within approximately 12 weeks. As a result, a work search waiver was granted to these claimants. Due to the vagaries of construction scheduling, especially during the winter months in Wisconsin, the rehire dates will be later than originally anticipated. The company expects to be able to open a line in part of the new construction in June or July of 1996 and will recall additional workers at that time. The company expects to be able to recall all workers by Labor Day.

Lena's population is approximately 590. The Stella Foods plant is a major employer in the Lena/Oconto Falls labor market, providing approximately 10% of all jobs in that labor market. Half of the jobs available with the plant remain unfilled. This constitutes 5% of all the jobs in that labor market. The unemployment rate in Oconto county before this fire was already 7.6%.

The department believes that the number of affected employees and the nature of the labor market in the Lena/Oconto Falls area makes it very unlikely that any substantial number of affected Stella Foods employees would be able to obtain suitable alternative work as a result of customary work search activities.

The existing permanent rule relating to work search requirements does not provide for waiver of the requirements in these circumstances. The department believes that it is necessary to promulgate this emergency rule in order to avoid wasting administrative funds and to avoid the hardship for other employers in the Lena/Oconto Falls area which will occur if this number of employees in this small labor market area are required to repeatedly canvass such other employers in order to comply with customary work search requirements. Other employers' hiring of those temporarily laid off

due to the fire could also impose a hardship on other unemployed individuals in the labor market who do not have any such assurance of being recalled to their former jobs.

Publication Date: April 15, 1996
Effective Date: April 15, 1996
Expiration Date: September 12, 1996
Hearing Date: May 28, 1996

EMERGENCY RULES NOW IN EFFECT

Insurance

Rules adopted creating s. **Ins 18.13 (5)**, relating to cost-containment rules.

Finding of Emergency

The Commissioner of Insurance finds that an emergency exists and that promulgation of an emergency rule is necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

The rule permits the Health Insurance Risk-Sharing Plan (HIRSP) Board to create a network of providers that have agreed to give discounts in addition to the mandatory discount of 10%. This rule is necessary to implement cost-containment measures allowed by statute. These measures become necessary to help control costs that have threatened a funding crisis for the HIRSP program. That funding crisis poses a potentially deleterious effect upon HIRSP policyholders and the insurance industry.

Publication Date: January 8, 1996
Effective Date: January 8, 1996
Expiration Date: June 6, 1996
Hearing Date: March 1, 1996

EMERGENCY RULES NOW IN EFFECT (4)

Natural Resources

(Fish, Game, etc., Chs. NR 1--)

1. Rules were adopted amending s. **NR 20.03 (1) (q) 2. b.** and creating s. **NR 20.036**, relating to sturgeon spearing in Lake Winnebago.

Finding of Emergency

The Department of Natural Resources finds that an emergency exists and rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

Department Fisheries staff have recently shown that due to increasing spearing pressure and increasing spearer success rates the Winnebago lake sturgeon population, particularly the mature female portion, is experiencing overexploitation. Improvements in system water quality along with optimal weather conditions have provided clear water and optimal spearing conditions in recent years resulting in three of the four highest harvests on record in recent years resulting in three of the four highest harvests on record

since 1990. To prevent the possible overharvest of sturgeon during the 1996 spearing season, an Emergency Order is required.

Publication Date: February 2, 1996
Effective Date: February 2, 1996
Expiration Date: July 1, 1996
Hearing Date: March 12, 1996

2. Rules were adopted revising ss. **NR 1.15 (2) (a), 10.104 and 10.28**, relating to deer hunting permits.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. There is great public interest in white-tailed deer and their management in Wisconsin. Failure to adopt these rules would require that the 1996 antlerless deer quotas be based upon existing overwinter population goals that do not reflect the public interest in deer management. There has been more than a year of comprehensive public involvement in developing this rule.

Publication Date: April 15, 1996
Effective Date: April 15, 1996
Expiration Date: September 12, 1996
Hearing Date: May 20, 1996

3. Rules adopted amending s. **NR 20.038**, relating to special size and bag limits for the Lac du Flambeau reservation.

Finding of Emergency

The Department of Natural Resources finds that an emergency exists and rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

The department has recently come to an interim agreement with the Lac du Flambeau band regarding their off-reservation harvest goals. This rule change is needed for the 1996 fishing season in order to meet our obligation in the agreement, thus, an Emergency Order is required. This agreement will promote preservation and protection of public peace, safety, and welfare in the ceded territory of Wisconsin by minimizing regional social and economic disruption known to be associated with reductions in walleye bag limits on off-reservation waters. Pursuant to litigation arising from *Lac Courte Oreilles v. Voight*, 70 F. 2d 341 (7th Cir. 1983), the Chippewa bands of Wisconsin, which includes the Lac du Flambeau, have the right to take walleye from off-reservation waters using efficient methods such as spearing and netting. The Lac du Flambeau have made initial 1996 harvest declarations for off-reservation lakes that are sufficiently high to require the department to reduce the daily bag limit to 0 on several lakes, consistent with the formula of s. NR 20.037. The Lac du Flambeau have agreed to reduce harvest declarations to a level commensurate with a daily bag limit of 2 walleye this year and a daily bag limit of 3 in future years, provided that the state reduces its daily bag limits for walleye to 3, with a minimum length limit of 18" and increase the muskellunge minimum length limit to 40" on waters within the Lac du Flambeau reservation. The state has agreed to do so in order to provide more socially acceptable sports fishing opportunity on off-reservation waters. This will lessen tensions caused by severely reduced bag limits and will assist local businesses dependent on the sport fishery.

Publication Date: May 3, 1996
Effective Date: May 3, 1996
Expiration Date: September 30, 1996
Hearing Date: June 12, 1996

[See Notice this Register]

4. Rules were adopted revising chs. **NR 10 and 11**, relating to the 1996 deer hunting seasons.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. This

emergency rule is needed to control deer populations that are significantly over goal levels in order to prevent substantial deer damage to agricultural lands and to minimize deer nuisance problems, thereby protecting the public peace, health, safety or welfare. Normal rule-making procedures will not allow the establishment of these changes by August 1. Failure to modify our rules will result in the failure to provide hunting opportunity and comply with administrative rules.

Publication Date: May 3, 1996
Effective Date: August 12, 1996
Expiration Date: January 9, 1997
Hearing Date: June 11, 1996
[See Notice this Register]

EMERGENCY RULES NOW IN EFFECT

Department of Revenue

Rules adopted revising **ch. Tax 18**, relating to the 1996 assessment of agricultural property.

Finding of Emergency

The Wisconsin Department of Revenue finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting the emergency is:

1995 Wis. Act 27, published July 28, 1995, changes the way agricultural land is valued for property tax purposes. Under the law, the assessed value of each parcel of agricultural land in 1996 is the same as the assessed value of that parcel in 1995. Buildings and improvements to agricultural land continue to be assessed at their full market value.

Since 1995 Wis. Act 27 affects assessments as of January 1, 1996, an emergency rule is necessary for the efficient and timely assessment of agricultural land in 1996.

In particular, the rule addresses the following needs:

- repealing obsolete terms defined by rule
- defining the terms “land devoted primarily to agricultural use”, “other”, and “parcel of agricultural land”
- providing instructions for assessing “agricultural land” and “other” land classifications in 1996.

This rule is therefore promulgated as an emergency rule and shall take effect upon publication in the official state newspaper. Certified copies of the rule have been filed with the Secretary of State and the Revisor of Statutes, as provided in s. 227.24, Stats.

Publication Date: December 6, 1995
Effective Date: December 6, 1995
Expiration Date: May 5, 1996
Hearing Date: January 25, 1996
Extension Through: July 3, 1996

EMERGENCY RULES NOW IN EFFECT (2)

Department of Transportation

1. Rule was adopted amending **s. Trans 6.04 (1) (e)**, relating to the administration of the federal section 18 program.

Finding of Emergency

The Department of Transportation finds that an emergency exists and that a rule is necessary for the immediate preservation of the public welfare. A statement of the facts constituting the emergency is that without a Governor's certification that the intercity bus service needs of the state are being adequately met, many small urban and rural transit systems will see sharp, unplanned reductions in the amount of financial assistance they receive in 1996. These cuts may result in service reductions, fare increases and the need for local governments to cover a higher share of operating losses than has been budgeted.

Publication Date: March 13, 1996
Effective Date: March 13, 1996
Expiration Date: August 10, 1996
Hearing Date: April 17, 1996

2. Rules adopted creating **Ch. Trans 258**, relating to seed potato overweight permits.

Finding of Emergency

The Department of Transportation finds that an emergency exists and that a rule is necessary for the immediate preservation of the public safety and welfare. Although the Department will pursue promulgation of this rule through normal procedure, the Department finds an emergency exists for the following reasons: (1) seed potatoes are transported to market between late February and April. Promulgation of an administrative rule through the normal process would not be timely for this planting season; (2) the Department believes the Legislature intended the provisions of 1995 Wis. Act 163 to be effective during this spring planting season. In order to promulgate rules in time for this spring growing season, this emergency process must be employed. The statute does not specify truck configurations, such as trailer length, axle spacing and weight distribution, but delegates responsibility to the Department. Without specified configurations vehicles that will impose damage to the roadway will be eligible for permits; and (3) the statute confers authority to identify an alternate route through rule but does not specify the alternate route. A suitable alternate route should be in place prior to the issuance of permits to allow diversion of permitted loads if any of the low weight bridges along the primary route manifests overstress. Closure of any of those bridges would substantially impede movement of other legal weight traffic in an area with few alternate routes.

Publication Date: April 3, 1996
Effective Date: April 3, 1996
Expiration Date: August 31, 1996
Hearing Date: May 13, 1996

STATEMENTS OF SCOPE OF PROPOSED RULES

Scope of Proposed Rule

Agriculture, Trade & Consumer Protection

The Department of Agriculture, Trade and Consumer Protection gives notice, pursuant to s. 227.135, Stats., that it proposes to modify an administrative rule.

SUBJECT

Animal Health: Paratuberculosis (Johne's Disease) and Other Disease Control Programs

Administrative Code Reference

(Chs. ATPC 10, 11 and 12)

DESCRIPTION OF POLICY ISSUES

Preliminary Objectives

- Modify Wisconsin's current program for controlling paratuberculosis (Johne's disease) in cattle. Amend current rules so that dairy farmers have more incentive to test for Johne's disease and take control measures if disease is detected.
- Implement Assembly Bill 483, related to indemnities paid to owners of animals condemned for disease control purposes. The Legislature recently passed the indemnities legislation, which the Department must implement by rule as soon as possible. If the Governor vetoes all or part of the legislation, the Department will modify its rule proposal accordingly.
- Make other minor changes to update and clarify current rules, incorporate federal law changes, and improve program operations.

Preliminary Policy Analysis

Paratuberculosis (Johne's Disease)

Paratuberculosis (Johne's disease) is an insidious and eventually fatal disease of cattle and other ruminants. Johne's disease has become a widespread problem in Wisconsin dairy herds. Young animals may become infected in utero, or by ingesting disease organisms shed by other animals (e.g., in milk or manure). Infected animals normally do not show clinical symptoms until they are 18 months to 10 years old. However, animals without apparent symptoms can spread the disease to their young or to other animals in the herd. A herd may become infected when the herd owner introduces infected, but seemingly healthy, animals to the herd.

Extensive herd testing, followed by limited culling and careful herd management, is necessary to control Johne's disease. Many Wisconsin dairy producers are not testing their herds for Johne's disease, nor are they managing their herds to prevent or control the disease. Many herd owners are reluctant to test for fear that a disease finding may reduce the value of their herd. However, sales of infected animals will continue to spread the disease.

Under s. 95.195, Wis. Stats., a seller of cattle impliedly warrants that the cattle are free of Johne's disease unless the seller does one of the following (the seller may choose either option):

- Notifies the buyer in writing, prior to the sale, that the cattle are not warranted as being free of Johne's disease.
- Tests the herd of origin according to Department rules and discloses the results. (Herd testing is necessary because testing of individual animals is not reliable.)

Many sellers are merely giving a warranty disclaimer (the first option), rather than testing the herd of origin (the 2nd option). The Department proposes to modify its current testing rules so that more sellers will choose the testing option. More testing would result in

better disease control. It would also provide a greater pool of tested herds from which buyers could purchase with greater confidence.

The Department proposes to offer a simplified testing alternative which would demand fewer repetitive herd tests. This would provide less assurance that the tested herd is actually free of Johne's disease, but it would be preferable to no testing. The Department has not yet determined a specific test protocol, nor has it decided how sellers should disclose the test results to prospective buyers. On these issues, the Department will be seeking input from interested persons, organizations and veterinary medical experts.

Indemnities Legislation

The Legislature recently passed Assembly Bill 483, related to indemnities paid to owners of livestock condemned for disease control purposes. This legislation identifies the general types and amounts of indemnities which the Department must pay; however, the Department must adopt rules implementing AB 483, including the methods used to determine the value of certain condemned animals. The Department must begin immediately to develop the implementing rules. If the Governor vetoes all or part of the legislation, the Department will modify its rule proposal accordingly.

Other Rule Changes

The Department proposes to make a number of minor rule changes to update and clarify current rules, incorporate federal law changes, and improve program operations. These rule changes will involve nonsubstantive technical changes, or minor policy changes.

Policy Alternatives

- **Do nothing.** Current low levels of testing for Johne's disease would continue, and the disease would continue to be a major source of mortality and reduced productivity for Wisconsin's dairy industry. Animal health administrative rules would be inconsistent with federal regulations, and minor changes which could clarify existing rules or improve current programs would not be made. Legislative initiatives would not be fully implemented.

- **Make more radical changes to Johne's disease control program, e.g., by eliminating a seller's option of disclaiming the implied warranty that cattle are free of Johne's disease.** This would mean that all cattle would be sold subject to an implied warranty unless the herd of origin was tested and the test results were disclosed to the buyer. This would require a statutory change.

STATUTORY AUTHORITY

The Department proposes to develop animal health rules under authority of ss. 93.07 (1) and 95.195 (2). The rules would interpret chapter 95, Stats., and other applicable laws administered by the Department.

STAFF TIME REQUIRED

The Department estimates that it will use approximately .5 FTE staff time to develop this rule. This includes research, drafting, preparing related documents, holding public hearings, coordinating advisory council discussions, and communicating with affected persons and groups. The Department believes that, in the long run, the rule will save staff time and increase program efficiency. The Department will assign existing staff to develop this rule.

Scope of Proposed Rule

Agriculture, Trade & Consumer Protection

The Department of Agriculture, Trade and Consumer Protection gives notice, pursuant to s. 227.135, Stats., that it proposes to modify an administrative rule.

SUBJECT

Plant Inspection and Pest Control; Potato Late Blight

Administrative Code Reference

Ch. ATPC 21, Wis. Adm. Code (Existing)

DESCRIPTION OF POLICY ISSUES**Preliminary Objectives**

Manage a serious plant disease which poses an imminent threat to Wisconsin's potato industry. This rule would require potato growers to follow certain practices which are needed to control the spread of the disease.

Preliminary Policy Analysis

In recent years, new forms of the highly virulent "Irish potato famine" fungus, *Phytophthora infestans*, have caused increasingly devastating losses to potato growers in the United States and Canada. The fungus causes a disease of potato plants which is commonly known as "late blight."

The National Association of State Departments of Agriculture reports that late blight epidemics in 1992, 1993 and 1994 were the worst in decades, and that some individual farm losses have amounted to hundreds of thousands of dollars in a single year. The University of Wisconsin estimates that Wisconsin growers lost up to \$10 million in 1994 and \$6 million in 1995 due to late blight.

The potato industry is one of Wisconsin's most important agricultural industries. In 1995, Wisconsin was the 3rd leading state in the nation in potato production. Cash receipts to Wisconsin potato growers totalled over \$150 million in 1995. Potatoes are an important food source for the people of Wisconsin and other states. Potato production also supports important processing and distribution industries in Wisconsin. The uncontrolled spread of late blight would have a devastating impact on Wisconsin potato growers, and would seriously affect the public health, safety and welfare.

Late blight appears on potato plant leaves, stems and tubers. It causes foliar lesions which are followed by severe defoliation in wet weather. It can also reduce marketable yield by directly infecting and rotting potato tubers. Once late blight appears, it spreads rapidly and can cause total crop loss.

Late blight fungal spores can be spread by many things, including wind, rain, machinery, workers, wildlife and infected seed potatoes. The University of Wisconsin reports that spores can be transported over 25 miles by storms.

There are very few registered fungicides in the United States that are effective in controlling the new forms of late blight fungus. Because of the lack of registered fungicides, and the ease with which the late blight fungus spreads, potato growers must mitigate the spread of the disease by removing sources of the overwintering inoculum. Among other things, potato growers must properly dispose of potato cull piles and "volunteer" potato plants which germinate from waste potatoes.

A failure by individual potato growers to implement necessary cultural practices to mitigate the spread of late blight will have a potentially devastating impact on other growers, and on the Wisconsin potato industry as a whole.

In order to ensure that growers take adequate steps to mitigate the spread of late blight, it is necessary to adopt rules that spell out critical practices and establish sanctions for growers who fail to comply. Among other things, this rule would require potato growers to eliminate "cull piles" by May 20th of each year.

Policy Alternatives

• **Do nothing.** This could increase the possibility of the late blight disease spreading before the Department is informed of problems at a specific site. It is more difficult to control the disease after it has already spread to an identified site.

• **The Department could increase field inspections to find problems, but this effort would be limited by the lack of field staff resources.** The Department is currently working with growers and

asking them to help identify problems so that field staff can target their efforts.

• **The Department could significantly increase information and education efforts to teach growers about integrated pest management programs.** However, the University Extension, in conjunction with the growers' association, already has an extensive education program in place, so any additional efforts by the Department would bring minimal increases in grower compliance with appropriate management practices.

STATUTORY AUTHORITY

The Department proposes to revise ch. ATPC 21, Wis. Adm. Code, under authority of ss. 93.07 (1) and (12) and 94.01 (1), Wis. Stats.

STAFF TIME REQUIRED

The Department estimates that it will use approximately 0.1 FTE staff to develop this rule. This includes drafting, communicating with affected persons and groups, preparing related documents and holding public hearings. The Department will use existing staff to develop this rule.

Scope of Proposed Rule**Agriculture, Trade & Consumer Protection**

The Department of Agriculture, Trade and Consumer Protection gives notice, pursuant to s. 227.135, Stats., that it proposes to modify an administrative rule.

SUBJECT

Pesticide Use and Control

Administrative Code Reference

Chapter ATPC 29, Wis. Adm. Code (Existing). The Department may renumber and reorganize this rule.

DESCRIPTION OF POLICY ISSUES**Preliminary Objectives**

Update current ch. ATPC 29 rules to protect persons, property and the environment from pesticide exposure. Revise or eliminate obsolete provisions. Reorganize rules to make it easier for persons selling, handling and using pesticides to understand and comply with applicable rules.

Preliminary Policy Analysis

More than \$180 million worth of pesticides are used in Wisconsin each year. Chapter ATPC 29 regulates persons who manufacture, distribute, handle, store, apply or dispose of pesticides in this state. The current rules are designed to protect persons, property and the environment from risks associated with pesticide exposure. Chapter ATPC 29 includes rules related to:

- Pesticide product registration and use restrictions.
- Licensing of pesticide manufacturers and distributors.
- Licensing and certification of pesticide applicators.
- Regulations governing the storage, handling, use and disposal of pesticides.

Pesticide products and use practices have changed over time. The Department proposes to:

- Update ch. ATPC 29 rules to reflect current industry practices.
- Repeal obsolete rule provisions.
- Renumber and reorganize ch. ATPC 29 rules to make it easier for the regulated industry to understand and comply with current requirements.

The Department is also proposing to update and reorganize a number of closely-related rules, including:

- 1) Ch. ATPC 30 (Atrazine pesticides; use restrictions);
- 2) Ch. ATPC 31 (Fertilizer or Pesticide Substances in Groundwater);
- 3) Ch. ATPC 32 (Fertilizer Bulk Storage);

- 4) Ch. ATPC 33 (Pesticide Bulk Storage); and
- 5) Ch. ATPC 35 (Agricultural Chemical Cleanup Program).

The Department has prepared separate scope statements for the other rules. By reorganizing all of these rules, the Department will make it easier for the regulated industry to understand and comply with applicable requirements.

Policy Alternatives

- **No Change.** If the Department does not change ch. ATPC 29, the current rules will remain in effect in their current form. The current rules will become ever more outdated, complex and difficult to understand. This will reduce protection for persons, property and the environment. It will also increase compliance costs and make it more difficult for the regulated industry to comply.

STATUTORY AUTHORITY

The Department proposes to modify ch. ATPC 29 under authority of ss. 93.07 and 94.69, Wis. Stats.

STAFF TIME REQUIRED:

The Department estimates that it will use approximately .75 FTE staff time to modify this rule. This includes research, drafting, preparing related documents, coordinating advisory committee discussions, holding public hearings and communicating with affected persons and groups. The Department will use existing staff to develop this rule.

Scope of Proposed Rule

Agriculture, Trade & Consumer Protection

The Department of Agriculture, Trade and Consumer Protection gives notice, pursuant to s. 227.135, Stats., that it proposes to modify an administrative rule.

SUBJECT

Atrazine Pesticides; Use Restrictions

Administrative Code Reference

Chapter ATPC 30, Wis. Adm. Code (Existing). The Department may renumber and reorganize this rule.

DESCRIPTION OF POLICY ISSUES

Preliminary Objectives

Regulate the use of atrazine herbicides to protect groundwater and assure compliance with Wisconsin's Groundwater Law. Update current rule to reflect groundwater sampling results obtained during the past year. Renumber and reorganize current rule, as necessary.

Preliminary Policy Analysis

Under the Wisconsin Groundwater Law, ch. 160, Wis. Stats., the Department must regulate the use of pesticides to assure compliance with groundwater standards established by the Department of Natural Resources under ch. NR 140, Wis. Adm. Code. DNR has established a groundwater enforcement standard of 3 ug/liter for atrazine and its chlorinated metabolites.

Under s. 160.25, Wis. Stats., the Department must prohibit atrazine uses that result in groundwater contamination levels which violate the DNR enforcement standard. The Department must prohibit atrazine use in the area where the groundwater contamination has occurred unless the Department determines to a reasonable certainty, based on the greater weight of credible evidence, that alternative measures will achieve compliance with the DNR enforcement standard.

Current rules under ch. ATPC 31 prohibit the use of atrazine in 91 designated areas (approximately 1,200,000 acres), including large portions of the Lower Wisconsin River Valley, Dane County and Columbia County. The current rules also restrict atrazine use rates and handling practices on a statewide basis. The statewide restrictions are designed to minimize the potential for groundwater contamination, as required under s. 160.25, Stats.

Over the past year, the Department has identified additional wells containing atrazine and its chlorinated metabolites at and above the current DNR enforcement standard. In order to comply with the Groundwater Law, the Department must take further action to prohibit or regulate atrazine use in the areas where these wells are located. The Department proposes to amend ch. ATPC 30 to add prohibition areas or take other appropriate regulatory action in response to the new groundwater findings.

Policy Alternatives

- **No Change.** If the Department takes no action, the current version of the ch. ATPC 30 atrazine rule (promulgated in March, 1996), would continue to apply. However, the Department would take no new regulatory action in response to new groundwater findings obtained this year. This would not adequately protect groundwater in the newly-discovered contaminated areas, nor would it meet the Department's obligations under the Groundwater Law.

STATUTORY AUTHORITY

The Department proposes to revise ch. ATPC 30, Wis. Adm. Code, under authority of ss. 93.07, 94.69, and 160.19 through 160.25, Wis. Stats.

STAFF TIME REQUIRED

The Department estimates that it will use approximately 0.6 FTE staff to develop this rule. This includes investigation, drafting, preparing related documents, coordinating advisory committee meetings, holding public hearings and communicating with affected persons and groups. The Department will use existing staff to develop this rule.

Scope of Proposed Rule

Agriculture, Trade & Consumer Protection

The Department of Agriculture, Trade and Consumer Protection gives notice, pursuant to s. 227.135, Stats., that it proposes to modify an administrative rule.

SUBJECT

Fertilizer or Pesticide Substances in Groundwater: Regulatory Program.

Administrative Code Reference

Chapter ATPC 31, Wis. Adm. Code (Existing). The Department may renumber and reorganize this rule.

DESCRIPTION OF POLICY ISSUES

Preliminary Objectives

Clarify generic standards for adopting and rescinding pesticide use prohibitions aimed at preventing pesticide contamination of groundwater. Renumber and reorganize the existing rule, as necessary, in order to clarify it and related rules.

Preliminary Policy Analysis

Under the Wisconsin Groundwater Law, ch. 160, Wis. Stats., the Department must prohibit certain activities under its jurisdiction (e.g., pesticide uses) which cause groundwater contamination at levels that violate enforcement standards established by the Department of Natural Resources. The Department must prohibit the causative practice in the local area where the groundwater contamination has occurred unless the Department determines, to a reasonable certainty based on the greater weight of credible evidence, that alternative measures will achieve compliance with the applicable DNR enforcement standard.

Chapter ATPC 31, Wis. Adm. Code, spells out the generic standards and procedures which the Department uses to carry out this statutory directive. These generic standards apply, regardless of which pesticide substance is involved. The Department follows these generic standards when it takes substance-specific regulatory action. For example, the Department's atrazine rules (ch. ATPC 30) prohibit the use of atrazine herbicides in certain areas, based on the generic standards spelled out in ch. ATPC 31.

The DATCP Board recently asked the Department to clarify the generic standards which the Department uses to create and rescind prohibition areas. To do this, the Department proposes to modify its generic rules under ch. ATPC 31. The ch. ATPC 31 revisions may, in turn, generate subsequent revisions to the Department's substance-specific rules (such as the ch. ATPC 30 atrazine rules). Future regulations aimed at specific groundwater contaminants will also be affected by the generic rule changes.

Currently, under ch. ATPC 31, the scope and duration of a site-specific prohibition must be reasonably designed to achieve and maintain compliance with the groundwater enforcement standard at the initial test site and at other downgradient points to which the groundwater contaminant may migrate. A prohibition may remain in effect indefinitely unless the Department is shown, and determines, that resumption of the pesticide use is not likely to cause a renewed or continued violation of the enforcement standard.

The current rule does not identify the types or amounts of evidence which the Department will consider in making these determinations. Nor does the current rule specify a procedure for rescinding a pesticide use prohibition area once it has created that prohibition area. The Department proposes to clarify these generic standards and procedures, to the maximum extent feasible. The Department has not yet determined what clarifications it will adopt. However, the Department will develop clarification proposals and will seek input from affected individuals and organizations.

Policy Alternatives

- **No Change.** Currently, ch. ATPC 31 provides broad generic standards, but no specific details, related to the creation and elimination of pesticide use prohibitions. The DATCP Board has indicated that it is not satisfied with the current generic standards, and has asked the Department to develop more specific standards.

- **Do not change current generic standards under ch. ATPC 31, but modify substance-specific rules (e.g., ch. ATPC 30 atrazine rules) to clarify procedures for creating and eliminating use prohibition areas related to those specific substances.** It will not be easy to specify "one size fits all" generic standards which will apply equally well to all agricultural chemicals which may be found in groundwater; however, the DATCP Board is concerned that the same generic standards should be applied to all agricultural chemicals and use locations, and has asked the Department to make those generic standards as specific as reasonably possible. More specific generic standards will define the information which the Department must consider and the steps which the Department must follow when creating or eliminating substance-specific prohibition areas.

STATUTORY AUTHORITY

The Department proposes to revise ch. ATPC 30, Wis. Adm. Code, under authority of ss. 93.07, 94.69, and 160.19 through 160.25, Wis. Stats.

STAFF TIME REQUIRED

The Department estimates that it will use approximately 0.6 FTE staff to develop this rule. This includes research, drafting, preparing related documents, coordinating advisory committee meetings, holding public hearings and communicating with affected persons and groups. The Department will use existing staff to develop this rule.

Scope of Proposed Rule

Agriculture, Trade & Consumer Protection

The Department of Agriculture, Trade and Consumer Protection gives notice, pursuant to s. 227.135, Wis. Stats., that it proposes to modify an administrative rule.

SUBJECT

Fertilizer Bulk Storage

Administrative Code Reference

Ch. ATPC 32, Wis. Adm. Code (Existing). The Department may renumber and reorganize this rule.

DESCRIPTION OF POLICY ISSUES

Preliminary Objectives

Update ch. ATPC 32 fertilizer bulk storage rule to prevent fertilizer spills and reflect changing fertilizer bulk storage practices. Reorganize ch. ATPC 32 and related rules to make it easier for persons storing bulk fertilizer to understand and comply with applicable requirements.

Preliminary Policy Analysis

The ch. ATPC 32 fertilizer bulk storage rule took effect in January, 1986. The Department proposes to update the rule to address a number of minor changes in the bulk storage industry. Some current rule provisions are no longer needed and could be eliminated. The Department may also renumber or reorganize the rules, as necessary.

The Department is also proposing to update and reorganize a number of closely-related rules, including:

- 1) Ch. ATPC 29 (Pesticide Use and Control);
- 2) Ch. ATPC 31 (Fertilizer and Pesticide Substances in Groundwater);
- 3) Ch. ATPC 33 (Pesticide Bulk Storage); and
- 4) Ch. ATPC 35 (Agricultural Chemical Cleanup Program).

The Department has prepared separate scope statements for the other rules. By reorganizing all of these rules, the Department will make it easier for the regulated industry to understand and comply with the rules.

Policy Alternatives

- **No change.** If the Department does not change ch. ATPC 32, the current rule will remain in effect. The current rule works reasonably well, but portions of the rule have become obsolete as industry practices have changed. Reorganization would make it easier to understand and comply with this and other rules related to agricultural chemical management.

STATUTORY AUTHORITY

The Department proposes to modify the current ch. ATPC 32, fertilizer bulk storage rules, under authority of s. 94.645, Wis. Stats.

STAFF TIME REQUIRED

The Department estimates that it will use less than .2 FTE staff to revise this rule. This includes coordinating meetings, drafting the rule, preparing related documents, organizing and holding public hearings and communicating with affected persons and groups.

Scope of Proposed Rule

Agriculture, Trade & Consumer Protection

The Department of Agriculture, Trade and Consumer Protection gives notice, pursuant to s. 227.135, Wis. Stats., that it proposes to modify an administrative rule.

SUBJECT

Pesticide Bulk Storage

Administrative Code Reference

Ch. ATPC 33, Wis. Adm. Code (Existing). The Department may renumber and reorganize this rule.

DESCRIPTION OF POLICY ISSUES

Preliminary Objectives

Update the ch. ATPC 33 pesticide bulk storage rule to prevent pesticide spills and reflect changing pesticide bulk storage practices. Reorganize ch. ATPC 33 and related rules to make it easier for persons storing bulk pesticides to understand and comply with applicable requirements.

Preliminary Policy Analysis

The ch. ATPC 33 pesticide bulk storage rule took effect in January, 1986. The Department proposes to update the rule to address a number of minor changes in the bulk storage industry. Some current rule provisions are no longer needed and could be eliminated. The Department may also renumber or reorganize the rule, as necessary.

The Department is also proposing to update and reorganize a number of closely-related rules, including:

- 1) Ch. ATPC 29 (Pesticide Use and Control);
- 2) Ch. ATPC 31 (Fertilizer and Pesticide Substances in Groundwater);
- 3) Ch. ATPC 32 (Fertilizer Bulk Storage); and
- 4) Ch. ATPC 35 (Agricultural Chemical Cleanup Program).

The Department has prepared separate scope statements for the other rules. By reorganizing all of these rules, the Department will make it easier for the regulated industry to understand and comply with the rules.

Policy Alternatives

- **No change.** If the Department does not change ch. ATPC 33, the current rule will remain in effect. The current rule works reasonably well, but portions of the rule have become obsolete as industry practices have changed. Reorganization would make it easier to understand and comply with this and other rules related to agricultural chemical management.

STATUTORY AUTHORITY

The Department proposes to modify the current ch. ATPC 33 pesticide bulk storage rule under authority of s. 94.645, Wis. Stats.

STAFF TIME REQUIRED

The Department estimates that it will use less than .2 FTE staff to revise this rule. This includes coordinating meetings, drafting the rule, preparing related documents, organizing and holding public hearings and communicating with affected persons and groups.

Scope of Proposed Rule

Agriculture, Trade & Consumer Protection

The Department of Agriculture, Trade and Consumer Protection gives notice, pursuant to s. 227.135, Stats., that it proposes to modify an administrative rule.

SUBJECT

Agricultural Chemical Cleanup Program

Administrative Code Reference

Ch. ATPC 35, Wis. Adm. Code (Existing). The Department may renumber and reorganize this rule.

DESCRIPTION OF POLICY ISSUES

Preliminary Objectives

Revise current ch. ATPC 35 rules to protect groundwater and improve the agricultural chemical cleanup reimbursement program.

Preliminary Policy Analysis

Chapter ATPC 35 spells out rules for the Agricultural Chemical Cleanup Program under s. 94.73, Stats. Under the cleanup program, the Department may order responsible persons to clean up agricultural chemical spills that may harm the environment. Persons who clean up agricultural chemical spills may qualify for state reimbursement of a portion of the cleanup costs, subject to rules specified in ch. ATPC 35.

Chapter ATPC 35 has been in effect since September, 1994. Some of the rule's current cost control provisions appear to be reducing participation in the cleanup reimbursement program. This may delay the cleanup of sites contaminated with agricultural chemicals. Other

portions of the current rule are confusing, or are inadequate to ensure that responsible persons will initiate effective cleanup efforts.

By modifying certain cost control and cleanup rules, the Department hopes to increase voluntary participation in the program and reduce cleanup delays. This will reduce environmental contamination related to agricultural chemical spills.

The Department is also proposing to update and reorganize a number of closely-related rules, including:

- 1) Ch. ATPC 29 (Pesticide Use and Control);
- 2) Ch. ATPC 31 (Fertilizer and Pesticide Substances in Groundwater);
- 3) Ch. ATPC 32 (Fertilizer Bulk Storage); and
- 4) Ch. ATPC 33 (Pesticide Bulk Storage).

The Department has prepared separate scope statements for the other rules. By reorganizing all of these rules, the Department will make it easier for the regulated industry to understand and comply with the rules.

Policy Alternatives

- **No change.** This would result in continued delay of certain cleanups. It would also impose unnecessary financial burdens on persons who wish to clean up contaminated sites.

STATUTORY AUTHORITY

The Department proposes to modify the current ch. ATPC 35 rules under authority of ss. 93.07 and 94.73, Wis. Stats.

STAFF TIME REQUIRED

The Department estimates that it will use approximately .75 FTE staff to modify this rule. This includes coordinating advisory committee meetings, drafting the rule, preparing related documents, organizing and holding public hearings and communicating with affected persons and groups.

Scope of Proposed Rule

Agriculture, Trade & Consumer Protection

The Department of Agriculture, Trade and Consumer Protection gives notice, pursuant to s. 227.135, Stats., that it proposes to amend an administrative rule.

SUBJECT

Vegetable Contractors; Security Requirements

Administrative Code Reference

Ch. ATPC 98, Wis. Adm. Code (Existing).

DESCRIPTION OF POLICY ISSUES

Preliminary Objective

Modify current ch. ATPC 98 rules to conform to law changes contained in Assembly Bill 630, recently passed by the Legislature. The law changes will strengthen financial standards and security requirements for vegetable contractors, and eliminate security requirements for fruit contractors. The Department also proposes to clarify procedures for calculating security and license fee requirements, so that all vegetable contractors use consistent procedures.

Preliminary Policy Analysis

Current ch. ATPC 98 rules interpret s. 100.03, Stats. The current law and rules are intended to protect farmers against financial defaults by fruit and vegetable contractors. Contractors must register annually with the Department, must file annual financial statements with the Department, and must meet minimum financial standards. Contractors who fail to file financial statements or meet minimum financial standards must file security with the Department for the benefit of farmers. The Department currently holds over \$27 million in security under this program.

Assembly Bill 630, recently passed by the Legislature, makes the following changes to the fruit and vegetable security program under s. 100.03, Stats.:

- It exempts fruit contractors from the law. The law would still apply to vegetable processors and handlers. Restaurants, retail food establishments, and handlers who procure vegetables solely for fresh market use rather than processing, are exempt from the current law and would still be exempt under the modified law.

- It changes the annual registration expiration date. A vegetable contractor's annual registration would expire on January 31, rather than March 31, of each year.

- It requires vegetable contractors to file an interim financial statement as of the quarter ending closest to November 30 of each year. This would give the Department more current information at the time of registration renewal.

- It strengthens minimum financial standards for vegetable contractors who do not make payment on delivery or post security with the Department. On their annual financial statements, vegetable contractors would be required to maintain a minimum current ratio (ratio of current assets to current liabilities) of at least 1.2 to 1.0, and minimum equity of at least 20 percent. On their interim financial statements, they would be required to maintain a minimum current ratio of at least 1.0 to 1.0, and minimum equity of at least 10 percent.

- It "phases in" security requirements, over a period of 3 years, for vegetable contractors who meet the "old" financial standards under the current law, but fail to meet the "new" financial standards created by the bill.

- If a contractor who meets the "old" financial standards is required to file security during the "phase in" period because that contractor fails to meet the "new" financial standards, the Department may release the security at the beginning of the next annual registration period if the contractor files an annual financial statement that meets the "new" minimum financial standards.

This rule would amend current ch. ATPC 98 rules to conform with the above statutory changes. The Department is proposing to begin this rulemaking proceeding at this time, so that the rules can be implemented as soon as possible. If the Governor vetoes all or part of Assembly Bill 630, the Department will modify its rulemaking accordingly.

This rule would also clarify current standards for calculating a contractor's "maximum liability to producers." A contractor's "maximum liability to producers" determines the amount of security and registration fees which a contractor must file with the Department. Department audits have shown that different contractors are currently calculating "maximum liability to producers" in different ways. The rule changes would ensure greater consistency and fairness between contractors.

Policy Alternatives

- *Do nothing.* However, rules under ch. ATPC 98 would then be seriously inconsistent with s. 100.03, Stats., as amended by Assembly Bill 630. There would also continue to be serious inconsistencies in the way that vegetable contractors calculate "maximum liability to producers" for the purpose of determining the amount of security and registration fees required.

STATUTORY AUTHORITY

The Department proposes changes to ch. ATPC 98 under authority of s. 100.03 (17), Stats. This rule would interpret s. 100.03, Stats.

STAFF TIME REQUIRED

The Department estimates that it will use approximately 0.5 FTE staff to develop this rule. This includes research, drafting, preparing related documents, holding public hearings, and communicating with affected persons and groups. The Department will use existing staff to develop this rule.

Scope of Proposed Rule

Agriculture, Trade & Consumer Protection

The Department of Agriculture, Trade and Consumer Protection gives notice, pursuant to s. 227.135, Wis. Stats., that it proposes to amend an administrative rule.

SUBJECT

Price Comparison Advertising

Administrative Code Reference

Ch. ATPC 124, Wis. Adm. Code.

DESCRIPTION OF POLICY ISSUES

Preliminary Objectives

Current Department rules under ch. ATPC 124 regulate price comparison advertising (e.g., claims that buyers will "save 40%"). The current rules are intended to prevent false, deceptive or misleading price comparison claims. This rule will modify the current ch. ATPC 124 rules to make it easier for sellers to compare their prices to prices offered by competitors more than 90 days earlier.

Preliminary Policy Analysis

The Department adopted the ch. ATPC 124 price comparison advertising rules in 1974 and amended the rules in 1978. Chapter ATPC 124 regulates advertisements in which sellers make specific savings claims for consumer property or services which the sellers are offering for sale: e.g., "50% off," "\$40 value for only \$10," "Was \$50, now only \$25," "introductory offer 50% off," or "\$35, compare elsewhere at \$75".

Under the current ch. ATPC 124 rules, a price comparison claim must be based on one of the following:

- A price at which the seller sold or offered the property or services in the past.
- A price at which a competitor sold or offered the property or services in the past.
- A price at which the seller will offer the property or services for sale in the future.

Currently, ch. ATPC 124 prohibits a seller from making a price comparison claim based on a competitor's price which is more than 90 days old. This rule would permit a seller to make a price comparison claim based on a competitor's price which is more than 90 days old if the seller discloses when the competitor's price was in effect. This will make it easier for catalog retailers (who typically revise their catalogs on a seasonal or annual basis) to make price comparison savings claims in their catalogs.

For example, some catalog retailers publish annual catalogs that compare the seller's prices to competitors' prices which were in effect before the seller published the catalog. By the time the annual catalog expires, the competitors' prices shown in that catalog may be well over a year old. This type of comparison, which is permitted in many other states, is currently prohibited in Wisconsin.

The Department proposes to revise ch. ATPC 124 to permit sellers to compare competitors' prices that are more than 90 days old, subject to certain safeguards. The Department also proposes to clarify what constitutes a relevant "trade area" for price comparison advertising purposes. (Under current rules, competitors' prices must be prices which competitors offered in the same "trade area.")

The Department does not believe that these changes will hurt consumers or honest competitors. The Department believes that these changes may expand market choices and increase business opportunities in Wisconsin. The changes are also in harmony with recent federal and state court decisions.

Policy Alternatives

- *Do nothing.* Current ch. ATPC 124 rules would remain unchanged. Although the current rules are aimed at preventing deceptive price comparison advertisements, they may be unnecessarily restrictive. Under the current rules, some catalog sellers may be prevented or discouraged from selling in Wisconsin. This

may restrict the market choices available to Wisconsin consumers, and may discourage competition which could benefit consumers.

- **Repeal ch. ATPC 124.** Chapter ATPC 124 currently prohibits deceptive and misleading price comparison advertisements, and spells out standards of compliance. The current rule provides important protection for consumers and honest competitors. Repeal would eliminate that protection.

STATUTORY AUTHORITY

The Department proposes to amend ch. ATPC 124 price comparison rules under authority of s. 100.20 (2), Wis. Stats.

STAFF TIME REQUIRED

The Department estimates that it will use approximately .2 FTE staff time to develop this rule change. This includes research, drafting, preparing related documents, holding public hearings, coordinating advisory council discussions, and communicating with affected persons and groups. The Department will assign existing staff to develop this rule.

Scope of Proposed Rule

Natural Resources

(Environmental Protection— General, Chs. NR 100—)

The Water Division is submitting a Rule Agenda/Board Action Checklist seeking authorization to hold one public hearing in Mid–September, 1996, in Madison, Wisconsin, on revisions to chs. NR 190 and 191, Wis. Adm. Code, concerning lake management planning grants and lake protection grants. Together these grants provide 75% state cost share assistance to lake organizations and local government for planning and implementing a wide variety of lake management projects.

In addition to legislative changes, project sponsors and region staff recommended changes to update these codes. An advisory committee consisting of representatives from lake organizations, sportfishing interests, local government, private consulting and Department staff is being organized to develop recommended language.

SUBJECT

Lake Planning Grants (ch. NR 190)

Lake Protection Grants (ch. NR 191)

DESCRIPTION OF POLICY ISSUES

Lake Management Planning Grants - Chapter NR 190

Several lakes are at or near the \$50,000 per lake cumulative funding cap. This dollar value does not reflect the need to plan on large or complex lake systems.

Public boating access standards (s. NR 1.91) are used to set priorities for planning grants, similar to the way they are used in the protection grant program. A consistent approach between the two codes will be proposed regarding public boating access as a priority.

The changes to be proposed are intended to create consistency with our present overall Department policy. Clarification, flexibility and consistency are sought to create a more equitable and efficient process.

Continued planning on large lake systems is impeded by the \$50,000 lifetime cap. Establishing a first priority for lakes with s. NR 1.91 minimum boating access standards is too strict and results in a bias against northern lakes in competitive years and, therefore, is inconsistent with the Northern Initiative.

Facts Necessitating the Proposed Change

Fox and Delavan Lakes are no longer eligible for planning grants and several other lakes are close to the cap, threatening completion of much-needed management plans. A conflict is anticipated in the northern part of the state, where promotional efforts for lake planning and protection are underway.

Lake Protection Grants - Chapter NR 191

The priority system needs to address the distinctively different types of eligible projects. Initial priorities should screen projects into comparable activities to assure a balance of project types will be funded and make the ranking of projects more equitable. Currently, lake restoration, local ordinance development and other lake protection activities, such as land acquisition, compete for the same allocation, causing difficulty in ranking and selection.

Our northern lake sponsors seeking protection grants have told us the way which public boating access standards (s. NR 1.91) are used to set priorities is unfair. While it is agreed that public access should be used to set priorities, current wording makes meeting the s. NR 1.91 public boating access standards a requirement.

The proposed revisions will bring the code in line with last year's legislation changes raising the funding cap and state share percentage of the protection grants from \$100,000 and 50% to \$200,000 and 75%. An application deadline consistent with other Department grant programs involving land acquisition will also be considered in the interest of better customer service.

The way the existing code assigns priorities, it is difficult to fund a balance of management activities. Assigning priorities is complicated because the wide variety of eligible activities compete for the same funds, using the same selection criteria. The existing November 1 deadline is inconsistent with other Department acquisition grant program deadlines which are May 1.

Facts Necessitating the Proposed Change

The last cycle was very competitive (\$4 million in requests for \$1.3 million in funding). The priority system nearly excluded the selection of restoration projects, the acquisition of "wild" lake shoreland, lake protection ordinance projects and outstanding projects on lakes where a previous grant had been issued. District staff reported difficulty coordinating acquisition projects due to the inconsistent application deadlines.

STATUTORY AUTHORITY

Wisconsin Statutes 144.254 and 144.253

STAFF TIME REQUIRED

The time commitment by Department staff is anticipated to be 80 hours.

Scope of Proposed Rule

Natural Resources

(Environmental Protection— Air Pollution Control, Chs. NR 400—)

The Bureau of Air Management is submitting a Rule Agenda/Board Action Checklist in order to seek authorization to hold two public hearings in September, 1996, in the locations of Madison and Wausau, Wisconsin, on a revision to ch. NR 415, Wis. Adm. Code, concerning the control of particulate matter emissions in nonattainment areas.

SUBJECT

Revision of nonattainment area provisions in "Control of Particulate Matter Emissions" – Chapter NR 415, Wis. Adm. Code

DESCRIPTION OF POLICY ISSUES

The purpose of the proposed rule revision is to allow certain state-designated nonattainment areas for Total Suspended Particulates (TSP) to be redesignated to attainment, without sacrificing the particulate limits which helped to lower concentrations in those areas. Currently, the particulate limits only apply to areas designated as "nonattainment areas" and would not apply if an area is redesignated to attainment by DNR. Since the particulate limits contributed to improved air quality, redesignation to attainment would result in a relaxation of emission limits, which could lead to future TSP problems in these areas.

The rule revision is designed to change the applicability for the particulate controls, by substituting a description of the specific geographic areas where the controls were implemented for the term

“nonattainment areas”. This change will allow the controls to remain in effect in those areas, but allow DNR to redesignate the areas to attainment, if the areas are, in fact, attaining the TSP ambient air quality standard.

The proposed rule revision will affect those sources within the current state-designated TSP nonattainment areas, and any new sources which move into the areas, by maintaining in effect the same TSP emission limits which are presently in effect.

In addition, the local units of government will be interested in this rule revision, because it will allow DNR to redesignate the current nonattainment areas to attainment and allow future economic development in those areas. If the present nonattainment designations were left in place, a community may have difficulty attracting new business to its area, due to additional restrictions placed on such areas by the nonattainment designation.

Facts Necessitating the Proposed Change

Two communities which have been designated as being in nonattainment of the state’s TSP ambient air quality standard have sought redesignation of these areas to attainment. An impediment to redesignation to attainment is the fact that the TSP emission limits which contributed to the improved air quality are tied to the “nonattainment” designation of the area. The proposed rule revision seeks to change the applicability language of the emission limits to substitute a description of the specific geographic areas for the term “nonattainment areas”. This will allow the emission limits to remain in place, while allowing DNR to redesignate areas to attainment, based on the improved air quality.

STATUTORY AUTHORITY

SS. 144.31 (1) (a) and (e) and 144.371, Wis. Stats.

STAFF TIME REQUIRED

The time commitment by Department staff is anticipated to be 276 hours.

Scope of Proposed Rule *Transportation, Dept. of*

SUBJECT

By amending ch. Trans 102, the objective of the rule is to permit certain drivers to operate a snow plow without a commercial driver’s license. The exceptions will be narrowly-defined within the guidelines authorized by federal regulations.

DESCRIPTION OF POLICY ISSUES

Currently, there are limited waivers from the commercial driver license requirements. These waivers include farmers, fire fighters, recreational vehicle operators and rescue squad members. There are no waivers for snow plow drivers.

The intent of the proposed waivers is to provide relief for small towns to utilize a temporary driver to plow snow in the event of a snow storm. This relief driver must be part-time or temporary and used only if the regular driver is unable to operate the vehicle or needs assistance due to a snow emergency.

Failure to proceed with this rule-making would be contrary to s. 343.055 (5), Stats.

STATUTORY AUTHORITY

S. 343.055 (5), Stats.

STAFF TIME REQUIRED

It is estimated that state employees will spend 100 hours completing the rule.

SUBMITTAL OF RULES TO LEGISLATIVE COUNCIL CLEARINGHOUSE

Notice of Submittal of Proposed Rules to Wisconsin Legislative Council Rules Clearinghouse

Please check the Bulletin of Proceedings for further information on a particular rule.

Educational Approval Board

Rule Submittal Date

On May 3, 1996, the Educational Approval Board submitted to the Legislative Council Rules Clearinghouse a proposed order revising ch. EAB 5.

Analysis

The proposed rule order relates to:

- 1) Definitions;
- 2) Required disclosures in catalogs and enrollment agreements used by approved post-secondary educational institutions;
- 3) The amount of bonding required of approved post-secondary educational institutions;
- 4) Fees to accompany applications for initial approval of certain post-secondary educational institutions; and
- 5) Measurement of programs in credits by approved post-secondary educational institutions.

All references to approval of post-secondary educational institutions refer to actions under s. 38.51 (10), Stats.

Agency Procedure for Promulgation

The Board has scheduled a public hearing on June 3, 1996 to consider the proposed changes. The executive secretary and the legal counsel for the Board are primarily responsible for the promulgation of this rule.

Contact Person

If you have any questions, you may contact Claudia Berry Miran, Legal Counsel, at (608) 266-0077.

Health & Social Services

Rule Submittal Date

On May 2, 1996, the Department of Health and Social Services submitted proposed rules affecting ch. HSS 144, Wis. Adm. Code to the Wisconsin Legislative Council Rules Clearinghouse, relating to the immunization of students.

Analysis

Statutory authority: s. 252.04 (2)

These are amendments to the Department's rules for immunization of schoolchildren — that is, children going to elementary school, junior high or middle school or senior high school, or to a day care center — against specified diseases. Currently, s. 252.04 (2), Stats., and the rules specify 7 diseases. This rulemaking order adds 2 more, *Haemophilus influenzae b* and *hepatitis B*, under the Department's authority in s. 252.04 (2), Stats., to add diseases by rule, and generally updates the chapter.

The two new diseases are being added to ch. HSS 144, mandatory immunization requirements for schoolchildren, following licensing of the vaccines and recommendations of the federal CDC's Advisory Committee on Immunization Practices (ACIP) that children be immunized against the diseases and that the Health Care Financing Administration provide funds for purchase of the vaccines for Medical Assistance (MA)-eligible children.

Immunization against the two new diseases will be mandatory in accordance with schedules and time periods included in this order.

Immunization requirements relating to *Haemophilus influenzae b* apply only to children who attend day care centers. Immunization requirements relating to *hepatitis B* apply as well to older children, but will not begin until the 1997-98 school year and then only for students entering day care centers, kindergarten and 7th grade, with extension each year thereafter to other grades until all students are covered by the school year 2003-2004.

The order also tightens up the definition of "substantial outbreak" in the current rules to bring it into line with current incidence and to make its meaning clearer.

Agency Procedure for Promulgation

Public hearings under ss. 227.16, 227.17 and 227.18, Stats., approval of rules in final draft form by the Secretary; and legislative standing committee review under s. 227.19, Stats.

Hearings will be scheduled later.

Contact Person

If you have any questions, you may contact Jerry Young, Division of Health, at (608) 266-5819.

Natural Resources

Rule Submittal Date

On May 13, 1996, the Wisconsin Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule, board order number [FR-30-96], affects s. NR 46.30 (2), relating to the administration of the Forest Crop Law and the Managed Forest Law — 1997 stumpage values.

Agency Procedure for Promulgation

The date for the public hearing is June 11, 1996.

Contact Person

If you have any questions, you may contact Ken Hujanen, Bureau of Forestry, at (608) 266-3545.

Natural Resources

Rule Submittal Date

On May 13, 1996, the Wisconsin Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule, board order number [AM-24-96], affects chs. NR 400, 407, 423, 460, 468 and 484, relating to emission standards for hazardous air pollutants generated from halogenated solvent cleaning operations.

Agency Procedure for Promulgation

The dates for the public hearings are June 11, 12 and 13, 1996.

Contact Person

If you have any questions, you may contact Michael Ross, Bureau of Air Management, at (608) 267-0564.

Natural Resources**Rule Submittal Date**

On May 13, 1996, the Wisconsin Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule, board order number [LE-15-96], affects chs. NR 19, 21 and 22, relating to turtle harvest.

Agency Procedure for Promulgation

The dates for the public hearings are June 18 and 19, 1996.

Contact Person

If you have any questions, you may contact Gary Homuth, Bureau of Law Enforcement, at (608) 266-3244.

Natural Resources**Rule Submittal Date**

On May 13, 1996, the Wisconsin Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule, board order number [AM-22-96], affects chs. NR 439, 460 and 484, relating to general provisions for emission standards for hazardous air pollutants.

Agency Procedure for Promulgation

The date for the public hearing is June 12, 1996.

Contact Person

If you have any questions, you may contact Roger Fritz, Bureau of Air Management, at (608) 266-1201.

Revenue**Rule Submittal Date**

Notice is hereby given, pursuant to s. 227.14 (4m), Stats., that on May 7, 1996, the Wisconsin Department of Revenue submitted a proposed rule order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule order repeals and recreates s. Tax 11.95, relating to the retailer's sales and use tax discount.

Agency Procedure for Promulgation

The Department intends to promulgate the proposed rule order without a public hearing, pursuant to s. 227.16 (2) (e), Stats.

The Office of the Secretary is primarily responsible for the promulgation of the rule order.

Contact Person

If you have questions regarding this rule, you may contact Mark Wipperfurth of the Income, Sales and Excise Tax Division, at (608) 266-8253.

Transportation**Rule Submittal Date**

In accordance with s. 227.14 (4m), Stats., on May 15, 1996, the Wisconsin Department of Transportation submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule revises ch. Trans 107, relating to driver licensing of persons with chemical abuse or dependency problems.

Agency Procedure for Promulgation

A hearing is required, and will be held June 19, 1996. The organizational unit responsible for the promulgation of the proposed rule is the Division of Motor Vehicles, Bureau of Driver Services, Alcohol/Drug Management Unit.

Contact Person

If you have questions regarding this rule, you may contact the Division of Motor Vehicles, Bureau of Driver Services, Alcohol/Drug Management Unit at (608) 266-2327.

NOTICE SECTION

Notice of Hearings

Natural Resources

(Fish, Game, etc., Chs. NR 1--)

Notice is hereby given that pursuant to ss. 29.175 and 227.11 (2) (a), Stats., interpreting s. 29.175 (2) (a), Stats., the Department of Natural Resources will hold a public hearing on the revisions to chs. NR 19, 21 and 22, Wis. Adm. Code, relating to turtle harvest in inland and boundary waters, including the Mississippi River.

Agency Analysis

The proposed rules handle inland and Mississippi River harvest separately. The proposed rules are:

1. Harvest season – statewide from July 15 to November 30
2. Size limits – statewide; 12” minimum and 16” maximum carapace length (top shell) for snappers; no size limits for softshells; no size limit for painted or map turtles
3. Legal methods of harvest – proposed methods include: trapping using only Department–specified hoop net traps; by hand; by hook and line; and by hooking
4. Number of traps allowed – 10 for the Mississippi River and 3 for inland waters
5. Bag and possession limits (bag and possession limits are the same):
 - a. Snappers – 10 for the Mississippi River and 3 for inland waters
 - b. Softshells – 5 for the Mississippi River and 3 for inland waters
 - c. All others – 5 for the Mississippi River and 5 for inland waters

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Stats., the proposed rule may have an impact on small businesses. There are currently no records available on the commercial value of turtles being sold directly through commercial turtle trappers nor on the number of people engaged in buying and selling turtle meat. Most trappers of inland waters indicate that they have harvested strictly for personal use in recent years after seeing turtle numbers decline below levels that could profitably support commercial operations.

Environmental Assessment

Notice is hereby further given that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code; however, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

Hearing Information

Notice is hereby further given that the hearings will be held on:

June 18, 1996
Tuesday
At 10:00 a.m.

Room 027, GEF #2
101 S. Webster St.
MADISON, WI

June 19, 1996
Wednesday
At 3:00 p.m.

1st Flr. Conference Room
Satter Building
111 W. Dunn St.
PRAIRIE DU CHIEN, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Gary Homuth at (608) 266-3244 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Person

Written comments on the proposed rule [LE-15-96] may be submitted to:

Mr. Bob Hay
Bureau of Endangered Resources
P.O. Box 7921
Madison, WI 53707

Written comments must be received no later than **June 28, 1996**, and will have the same weight and effect as oral statements presented at the hearings.

Fiscal Estimate

Summary

The proposed rule affects the taking of turtles on the Mississippi River and inland waters. The proposed rule creates a closed season from December 1 to July 14. (The current closed season is May 1 to June 15 on inland waters only and no closed season on the Mississippi River.) The rule creates a size limit for snapping turtles. The legal methods of harvest do not change with this rule, but are more carefully defined for clear understanding by the use. The rule creates bag limit and possession limits for various turtle species, whereas currently there are no limits.

Fiscal Impact

We assume that the administration of this rule through field enforcement will have the most significant impact on the Department of Natural Resources. Currently, 200 hours per year of field enforcement are workplanned by wardens to handle notices of violations from the public and perform patrol activities in the enforcement of current turtle regulations. Because of the extended closed season and the creation of bag and size limits, an increased need will arise for more patrol and time to respond to an anticipated small increase in the number of notices of violations from the public. We estimate that the number of hours of enforcement will increase by 300-400 hours annually or for a total of \$5,700.00 to \$7,600.00 of staff time and \$1,500.00 to \$2,000.00 in operating expenses. The Department intends to carry out the administration of the new rules within its current appropriation.

Notice of Hearing

Natural Resources

(Fish, Game, etc., Chs. NR 1--)

Notice is hereby given that pursuant to ss. 29.174 (3) and (4a), 227.11 (2) (a) and 227.24, Stats., interpreting ss. 29.107, 29.1075, 29.174 (1) and (2), Stats., the Department of Natural Resources will hold a public hearing on Natural Resources Board Emergency Order No. WM-18-96 (E), relating to the 1996 deer hunting season. This emergency order will take effect on **August 12, 1996**.

Agency Analysis

The rule establishes the regulations for the 1996 deer hunting seasons in 19 deer management units, including Governor Dodge, Blue Mound and Peninsula state parks. The rule requires that a hunter must first tag an antlerless deer before the hunter can tag a buck during both the bow and the firearm deer season. The rule authorizes the issuance of an antlerless tag and a buck tag with each bow and gun deer hunting license. The rule also authorizes the issuance of an antlerless deer special permit along with each antlerless deer bonus permit sold. In addition, the rule establishes an antlerless deer-only bow and firearm season October 24 through 27, 1996.

Hearing Information

Notice is hereby further given that the hearing will be held on:

June 11, 1996
Tuesday
At 1:00 p.m.

Room 611A, GEF#2
101 South Webster St.
MADISON, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Todd Peterson at (608) 267-2948 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Person

Written comments on the emergency rule may be submitted to:

Mr. Bill Mytton
Bureau of Wildlife Management
P.O. Box 7921
Madison, WI 53707

Written comments must be received no later than **June 13, 1996**, and will have the same weight and effect as oral statements presented at the hearing. A copy of the emergency rule [WM-18-96(E)] may be obtained from Mr. Mytton.

Fiscal Estimate

Applicants purchased slightly more than one bonus permit per hunter in 1995 in these units. Sale of these permits in 1995 generated \$760,560 in revenues for the Wildlife Damage Program. Under this proposal, a special permit will be made available free of charge with each archery and gun license and each bonus permit purchased. Fewer bonus permits will be purchased, due to the availability of free permits. Revenues to the Damage program will decrease an estimated \$660,000.

No Hunter's Choice permits will be issued in these units. The \$3 application fee will be charged to those hunters applying for a bonus permit through the mail. It is assumed most bonus permits sold will be sold over-the-counter. The loss of application fee revenues is estimated at \$195,000, based on the number of Hunter's Choice permits sold in these units in 1995.

Additional wage costs for Wildlife Management, Law Enforcement, Parks and Licensing staff will be incurred to cover the additional 4-day early season and the administration of the special permits and buck validation process. Payments to registration stations in these units will increase, due to additional requirements.

Approximately \$79,000 in additional state sales and income tax revenue will be generated by the 4-day early season.

Fiscal Impact

Revenues to Damage program will decrease by an estimated \$660,000.

Revenues from application fees will decrease by an estimated \$195,000.

Increased costs associated with the extra 4-day season and administrative requirements are approximately \$129,500.

Long-Range Fiscal Implications

Sufficient carryover monies exist in the Damage program to offset the loss of Damage revenues for 1996. If this season framework is extended to future years, carryover will need to be calculated and the impact on farmer payments analyzed. The increased costs associated with administration can be absorbed for one year, but would require new monies or reallocation if the framework is extended to additional years.

Notice of Hearing

Natural Resources

(Fish, Game, etc., Chs. NR 1--)

Notice is hereby given that pursuant to ss. 29.174 (3), 227.11 (2) (a) and 227.24, Stats., interpreting s. 29.174 (1) and (2), Stats., the Department of Natural Resources will hold a public hearing on Natural Resources Board Emergency Order No. FM-32-96 (E) pertaining to special size and bag limits for the Lac du Flambeau reservation. This emergency order took effect on **May 3, 1996**.

Agency Analysis

This order extends the sunset to **March 1, 1997** for sport fishing rules on waters within the Lac du Flambeau reservation, increases the minimum length limit to 18" for walleye for those waters, and allows the DNR secretary to extend the sunset beyond March 1, 1997, provided future agreements are reached with the Lac du Flambeau band which limit their off-reservation harvest goals to a level allowing a state walleye bag limit of 3 when calculated pursuant to s. NR 20.037.

Hearing Information

Notice is hereby further given that the hearing will be held on:

June 12, 1996
Wednesday
At 7:00 p.m.

Board Room
Minocqua Community Bldg.
415 Menomonie St.
MINOCQUA, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Steve Hewett at (608) 267-7501 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Person

Written comments on the emergency rule may be submitted to:

Mr. Steve Hewett
Bureau of Fisheries Mgt. & Habitat Protection
P.O. Box 7921
Madison, WI 53707

Written comments must be received no later than **June 21, 1996**, and will have the same weight and effect as oral statements presented at the hearing. A copy of the emergency rule [FM-32-96(E)] may be obtained from Mr. Hewett.

Fiscal Estimate

Summary

The basis for this fiscal estimate is as follows:

1. No fiscal effect on local units of government.
2. Rules are specific to waters within or bordering the Lac du Flambeau (LDF) reservation.
3. Enforcement will be by county wardens already assigned related tasks.
4. The 40 affected waters containing walleye/muskie will have to be posted.
5. No collection of fees is required.

6. Material costs of 80 signs for posting of regulations at access sites is \$5/sign.

7. State labor cost is determined as 40 hours @ \$10/hour for posting the signs. (Should LDF choose to assist in posting lakes, labor costs would be reduced.)

Fiscal Impact

\$800 net impact on state funds.

Notice of Hearing

Natural Resources

(Fish, Game, etc., Chs. NR 1--)

Notice is hereby given that pursuant to ss. 29.174 (2) (g) and 227.11 (2) (a), Stats., interpreting s. 29.174 (1) and (2), Stats., the Department of Natural Resources will hold a public hearing on the creation of s. NR 20.04 (5), Wis. Adm. Code, relating to sport fishing in urban waters.

Agency Analysis

The proposed rule establishes a special fishing season for persons under 16 years of age and persons considered disabled on designated urban waters from the second Saturday in March up to, but not including, the last Saturday in April. Waters affected by this rule will be posted to specify that a special fishing season applies.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses.

Environmental Assessment

Notice is hereby further given that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code; however, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

Hearing Information

Notice is hereby further given that the hearing will be held on:

June 19, 1996
Wednesday
At 7:00 p.m.

Havenswood State Forest
6141 N. Hopkins St.
MILWAUKEE, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Ron Piening at (414) 263-8614 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Person

Written comments on the proposed rule may be submitted to:

Mr. Ron Piening
DNR Southeast District Headquarters
P.O. Box 12436
Milwaukee, WI 53212

Written comments must be received no later than **June 21, 1996**, and will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [FM-2-96] and fiscal estimate may be obtained from Mr. Piening.

Fiscal Estimate

Summary

Hearings on rule changes are held periodically by Department personnel. The fishing rules promulgated are based on biological findings and public sentiment and will have no adverse effect on the fisheries. This proposal contains a change in the fishing rules, as approved by the Natural Resources Board, and the rules themselves will have no fiscal impact on either state or local units of government.

The procedures required to promulgate the rule will have a temporary fiscal impact due to any travel, meals, lodging and printing & mailing of the hearing notice and copies of the rule order for hearing participants. One-time printing & mailing costs are estimated to be \$100 and costs for personnel conducting the hearings are expected to be minimal because personnel from the affected area(s) will participate in the hearings, except that travel (\$180) for a program attorney will be needed for up to 3 days.

The following assumptions were made to arrive at the fiscal estimate for this rule change:

1. The proposed rule does not affect relations with local units of government or other state agencies.
2. No liability or revenue fluctuations are anticipated.
3. No new staffing is required by state or local units of government.
4. State DNR Law Enforcement personnel will enforce this rule during their normal course of duty.
5. No fee collection is involved with this rule.

Fiscal Impact

None anticipated.

Notice of Hearing

Natural Resources

(Fish, Game, etc., Chs. NR 1--)

Notice is hereby given that pursuant to ss. 77.06 (2), 77.91 (1) and 227.11 (2) (a), Stats., interpreting ss. 77.06 (2) and 77.91 (1), Stats., the Department of Natural Resources will hold a public hearing on the repeal and recreation of s. NR 46.30 (2) (a) to (c), Wis. Adm. Code, relating to the stumpage value for wood products cut from land entered under the Forest Crop Law and Managed Forest Law.

The stumpage value is used to calculate severance and yield taxes due. Twelve separate zones reflect varying stumpage values for different species and products across the state. The average price change for sawtimber is a 12.98% increase over current rates. The pulpwood prices are, on the average, 36.73% higher compared to current prices.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Stats., the proposed rule may have an impact on small businesses. The initial regulatory flexibility analysis is as follows:

- a. Types of small businesses affected:** Small private forest landowners and forest industries enrolled under the Forest Crop Law and the Managed Forest Law.
- b. Description of reporting and bookkeeping procedures required:** No new procedures.
- c. Description of professional skills required:** No new skills.

Environmental Assessment

Notice is hereby further given that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code; however, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

Hearing Information

Notice is hereby further given that the hearing will be held on:

June 11, 1996
Tuesday
At 11:00 a.m.

Council Chambers
Wausau City Hall
407 Grant St.
WAUSAU, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Ken Hujanen at (608) 266-3545 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Proposed Rule

Written comments on the proposed rule may be submitted to:

Mr. Ken Hujanen
Bureau of Forestry
P.O. Box 7921
Madison, WI 53707

Written comments must be received no later than **June 14, 1996**, and will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [FR-30-96] and fiscal estimate may be obtained from Mr. Hujanen.

Fiscal Estimate

The proposed 1997 stumpage rate schedule includes an average 12.98% increase in sawtimber prices and a 36.73% average net change in cordwood prices. The severance and yield tax collection in Calendar Year (CY) '95 was \$778,551. Of this, about 20% of the gross revenue is from sawtimber harvests. Eighty percent (80%) of the revenue was related to cordwood harvests. As a result, a 12.98% increase in sawtimber prices will produce an increase in gross revenue of about \$20,210. A 36.73% increase in cordwood values will generate about \$228,770 in additional revenue. The gross receipts are shared, the towns receiving roughly 50% and the state 50% of the revenue.

The net fiscal effect of the rule change will be about a \$124,490 increase in state revenue and a \$124,490 increase in local revenue.

Notice of Hearing

Natural Resources

(Environmental Protection-- WPDES, Chs. NR 200--)

Notice is hereby given that pursuant to ss. 147.035, 147.04, 147.06, 147.07 and 227.11 (2) (a), Stats., interpreting ss. 147.035, 147.04, 147.06 and 147.07, Stats., the Department of Natural Resources will hold a public hearing on the creation of ch. NR 233, Wis. Adm. Code, relating to the regulation of effluent limitations and pretreatment standards for the pesticide chemicals industry.

Agency Analysis

The rule is being proposed to parallel the corresponding federal rules. This regulation is intended to control the discharge of pollutants in wastewater generated during the manufacture of pesticide active ingredients from raw materials. This regulation does not apply to the manufacture of chemical "intermediates" which are not pesticides, but which subsequently are converted to pesticide active ingredients by further chemical reactions.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses.

Environmental Assessment

Notice is hereby further given that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code; however, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

Hearing Information

Notice is hereby further given that the hearing will be held on:

June 12, 1996
Wednesday
At 8:30 a.m.

Room 027, GEF #2
101 S. Webster St.
MADISON, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Charles Schuler at (608) 267-7631 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Person

Written comments on the proposed rule may be submitted to:

Mr. Charles Schuler, Pretreatment Section
Bureau of Watershed Management
P.O. Box 7921
Madison, WI 53707

Written comments must be received no later than **June 14, 1996**, and will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [WW-20-96] and fiscal estimate may be obtained from Mr. Schuler.

Fiscal Estimate

The purpose of adopting ch. NR 233 is to update the present code to ensure consistency with changes made to the federal regulations found at 40 CFR 455. The new code is equivalent to the federal regulations. The Department does not have the authority to be more or less stringent than the federal regulations. Additional costs will not be imposed upon the state because those revisions have already been implemented by the state and local governments and because policy has not changed.

Notice of Hearing

Natural Resources

(Environmental Protection-- WPDES, Chs. NR 200--)

Notice is hereby given that pursuant to ss. 147.035, 147.04, 147.06, 147.07 and 227.11 (2) (a), Stats., interpreting ss. 147.035, 147.04, 147.06 and 147.07, Stats., the Department of Natural Resources will hold a public hearing on the repeal and recreation of ch. NR 235, Wis. Adm. Code, relating to the regulation of effluent limitations and pretreatment standards for the organic chemicals, plastics and synthetic fiber industry.

Agency Analysis

The proposed code reflects changes made by the U.S. EPA. An exceptionally wide variety of pollutants are found in this industry's wastewaters because of the variety and complexity of raw materials,

processes and products. Pollutant formation is dependent upon raw material and process chemistry. The chemical reactions used by this industry almost always result in a mixture of unreacted raw materials, products and byproducts. The substances with no commercial value appear in the process wastewater, as air emissions or as chemical wastes.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses.

Environmental Assessment

Notice is hereby further given that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code; however, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

Hearing Information

Notice is hereby further given that the hearing will be held on:

June 12, 1996
Wednesday
At 8:30 a.m.

Room 027, GEF #2
101 S. Webster St.
MADISON, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Charles Schuler at (608) 267-7631 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Person

Written comments on the proposed rule may be submitted to:

Mr. Charles Schuler, Pretreatment Section
Bureau of Watershed Management
P.O. Box 7921
Madison, WI 53707

Written comments must be received no later than **June 14, 1996**, and will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [WW-21-96] and fiscal estimate may be obtained from Mr. Schuler.

Fiscal Estimate

The purpose of repealing and recreating ch. NR 235 is to update the present code to ensure consistency with changes made to federal regulations found at 40 CFR part 414. The new code is equivalent to the federal regulations. The Department does not have the authority to be more or less stringent than the federal regulations. Additional costs will not be imposed upon the state, because these revisions have already been implemented by the state and local governments and because policy has not changed.

Notice of Hearings

Natural Resources

(Environmental Protection-- Air Pollution Control, Chs. NR 400--)

Notice is hereby given that pursuant to ss. 144.31 (1) (a), 144.375 (5) and 227.11 (2) (a), Stats., interpreting s. 144.375 (5), Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 400, 407, 423 and 484 and the creation of s. NR 468.40, Wis. Adm. Code, relating to emission standards for

hazardous air pollutants generated from halogenated solvent cleaning operations.

Agency Analysis

The proposed rule would incorporate into state rules the federal hazardous air pollutant (HAP) emissions standard. Sources that use solvents that contain one or more of 6 halogenated HAP compounds (methylene chloride, trichloroethylene, perchloroethylene, carbon tetrachloride, chloroform and 1,1,1 trichloroethane) in combined concentrations greater than 5% by weight in solvent cleaning machines are affected by this rule. This rule does not affect fabric, wood, paper, sponge and wipe cleaning operations.

Some sources are affected by both the federal standard and by existing state requirements (s. NR 423.03). That section pertains to volatile organic compound emissions from solvent cleaning operations, and is a component of Wisconsin's 15% VOC Reduction Plan. Chloroform, carbon tetrachloride, trichloroethylene and perchloroethylene are halogenated HAP compounds that are also VOC's.

Section NR 423.03 includes two existing state requirements that are more stringent than those in the federal standard. Those requirements are part of Wisconsin's ozone pollution control strategy. In an effort to consolidate requirements, the proposed creation of s. NR 468.40 includes those two s. NR 423.03 requirements.

Initial Regulatory Flexibility Analysis

Notice is hereby given that pursuant to s. 227.114, Stats., the proposed rule may have an impact on small businesses. The initial regulatory flexibility analysis is as follows:

a. Types of small businesses affected: Any small business that uses halogenated solvent cleaners.

b. Description of reporting and bookkeeping procedures required: No new procedures not already required by federal regulation.

c. Description of professional skills required: No skills that are not already required by federal regulation.

Environmental Assessment

Notice is hereby further given that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code; however, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

Hearing Information

Notice is hereby further given that the hearings will be held on:

June 11, 1996
Tuesday
At 10:00 a.m.

Havenswood State Forest
6141 N. Hopkins St.
MILWAUKEE, WI

June 11, 1996
Tuesday
At 2:00 p.m.

Room E143
UWC-Manitowoc County
705 Viebahn St.
MANITOWOC, WI

June 12, 1996
Wednesday
At 10:00 a.m.

Room 585, GEF #3
125 S. Webster St.
MADISON, WI

June 13, 1996
Thursday
At 11:00 a.m.

Room 149
(UW-Ext. Conference Room)
Marathon Co. Courthouse
500 Forest St.
WAUSAU, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be

provided for qualified individuals with disabilities upon request. Please call Robert Park at (608) 266-1054 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Person

Written comments on the proposed rule may be submitted to:

Mr. Michael Ross
Bureau of Air Management
P.O. Box 7921
Madison, WI 53707

Written comments must be received no later than **June 28, 1996**, and will have the same weight and effect as oral statements presented at the hearings.

Copies of Proposed Rule and Fiscal Estimate

A copy of proposed rule [AM-24-96] and its fiscal estimate may be obtained from:

Phone: (608) 266-7718
FAX: (608) 267-0560
Proposed Rules
Bureau of Air Management
P.O. Box 7921
Madison, WI 53707

Fiscal Estimate

Summary

The federal standard that regulates hazardous air pollutant emissions from halogenated solvent cleaning operations became effective on December 2, 1994. That standard is one of the approximately 173 national emission standards for hazardous air pollutants (NESHAP's) that the U.S. Environmental Protection Agency expects to promulgate by 2002.

Section 144.375 (5), Stats., requires the Department to promulgate these NESHAP's by rule. This order [AM-24-96] would establish the halogenated solvent cleaning operations NESHAP [Please note that NESHAP's are also called maximum achievable control technology (MACT) standards] through revisions to chs. NR 400, 406, 407, 460 and 484; and creation of s. NR 468.26, Wis. Adm. Code.

Sources that use solvents that contain one or more of 6 halogenated compounds (methylene chloride, trichloroethylene, perchloroethylene, carbon tetrachloride, chloroform, and 1,1,1 trichloroethane) in combined concentrations greater than 5% by weight in solvent cleaning machines are affected by the standard. This standard does not affect fabric, wood, paper, sponge, and wipe cleaning operations.

Fiscal Impact

Because all affected sources must meet the federal requirements, promulgating this proposed rule will not pose additional costs on them. Local governments have no role in implementing these standards and, therefore, should not incur additional costs.

The Department's Bureau of Air Management is currently required to receive reports from and issue permits to sources that are affected by this proposed rule; consequently, promulgating this proposed rule will not pose additional costs on the Department.

Notice of Hearing

Natural Resources

(Environmental Protection-- Air Pollution Control, Chs. NR 400--)

Notice is hereby given that pursuant to ss. 144.31 (1) (a), 144.375 (5) and 227.11 (2) (a), Stats., interpreting s. 144.375 (5), Stats., the Department of Natural Resources will hold a public hearing on amendments to ss. NR 439.01 (2) and 484.04 table 2 and the creation of ch. NR 460, Wis. Adm. Code, relating to general provisions for emission standards for hazardous air pollutants.

Agency Analysis

The Department is required to promulgate by rule the national emission standards for hazardous air pollutants (NESHAP). The proposed rule would establish the state version of the general provisions. The general provisions require sources affected by a NESHAP to submit a notification identifying themselves to the U.S. Environmental Protection Agency or the Department within 120 days of promulgation unless another time frame for notification is provided in the new U.S. EPA source category standard. Under proposed ch. NR 460, this initial notification requirement would become both state and federally enforceable. The majority of the proposed rule is identical to the federal rule.

The revisions to ch. NR 439 clarify that the requirements of proposed ch. NR 460 are in addition to and supersede the provisions of ch. NR 439. The revisions to ch. NR 484 provide additional references to U.S. EPA test methods published in the code of federal regulations.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Stats., the proposed rule may have an impact on small businesses. The initial regulatory flexibility analysis is as follows:

a. Types of small businesses affected: Any small business that emits hazardous air pollutants.

b. Description of reporting and bookkeeping procedures required: No new procedures not already required by federal regulation.

c. Description of professional skills required: No skills that are not already required by federal regulation.

Environmental Assessment

Notice is hereby further given that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code; however, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

Hearing Information

Notice is hereby further given that the hearing will be held on:

June 12, 1996
Wednesday
At 9:00 a.m.

Room 585, GEF #3
125 South Webster St.
MADISON, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Robert Park at (608) 266-1054 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Person

Written comments on the proposed rule may be submitted to Mr. Roger Fritz, Bureau of Air Management, P.O. Box 7921, Madison,

WI 53707 no later than June 28, 1996. Written comments will have the same weight and effect as oral statements presented at the hearing.

Copies of Proposed Rule and Fiscal Estimate

A copy of proposed rule AM-22-96 and its fiscal estimate may be obtained from:

Phone: (608) 266-7718
FAX: (608) 267-0560

Proposed Rules
Bureau of Air Management
P.O. Box 7921
Madison, WI 53707

Fiscal Estimate

Summary

Under s. 144.375 (5), Stats., the Department is required to promulgate by rule the federal emission standards for hazardous air pollutants. The proposed rule mimics the existing federal rule which establishes general notification, monitoring, recordkeeping and reporting requirements for rules to be promulgated before May 15, 2002 and addressing 173 industrial categories.

The Department already implements the federal general provisions as required as part of the operation permit program under ch. NR 407, Wis. Adm. Code, and as required under s. 144.394 (12), Stats. The proposed rule would be cited in operation permits for affected facilities, which might be more efficient than copying and including the full text of the federal requirement.

The proposed rule would also apply to smaller facilities that are not required to obtain an operation permit, but are required to comply with the hazardous emission standards adopted by the Department under chs. NR 461 to 469, Wis. Adm. Code, in accordance with s. 144.395 (5), Stats. The cost for each of those industrial category standards would be considered in the fiscal estimate for those proposed rules. The only independent requirement of the proposed general provisions is the requirement for affected facilities to submit a copy of the federally required initial notification to the Department. The cost for receiving and filing the notifications is minuscule. Subsequent use of the notifications would be either included as part of the operation permit program or as part of program implementation for new rules and would be included in the fiscal estimate for the new applicable standard.

Because all affected facilities must meet the federal requirements, promulgation of the general provisions will pose no additional costs on them. Local governments have no role in implementing these standards and, therefore, should not incur any additional costs.

Existing Department resources will be sufficient to receive notifications from affected sources and file the notifications. All other requirements are already part of the existing operation permit program or will be considered in subsequent rule proposals that would establish new state standards and trigger the application of the monitoring, recordkeeping and reporting requirements of the proposed general provisions.

Fiscal Impact

None.

Notice of Proposed Rule Revenue

Notice is hereby given that pursuant to s. 227.11 (2) (a), Stats., and interpreting ss. 77.51 (13) (a), (14) (intro.) and (k) and 77.52 (1) and (2) (a) 9, Stats., and according to the procedure set forth in s. 227.16 (2) (e), Stats., the Department of Revenue will adopt the following rules as proposed in this notice without public hearing unless, within 30 days after publication of this notice on **June 1, 1996**, it is petitioned for a public hearing by 25 natural persons who will be affected by the rule, a municipality which will be affected by

the rule, or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

Contact Person

Please contact Mark Wipperfurth at (608) 266-8253, if you have any questions regarding this proposed rule order.

Analysis by the Department of Revenue

Statutory authority: s. 227.11 (2) (a)

Statutes interpreted: ss. 77.51 (13) (a), (14) (intro.) and (k) and (20) and 77.52 (1) and (2) (a) 9

SECTION 1. Tax 11.69 (title), relating to financial institutions, is amended to add statute references that are interpreted in this section but were not previously mentioned.

SECTION 2. Tax 11.69 (1), (2) (title), (intro.), (a), (b), (c), (d), (e), (f) and (g) and (3) (title) and (c), relating to exempt and taxable sales and purchases by financial institutions, are renumbered s. Tax 11.69 (2), (3) (title), (intro.), (b), (d), (c), (e), (h), (f) and (a) and (4) (title) and (d), and s. Tax 11.69 (2) and (4) (d), as renumbered, are amended, per Legislative Council Rules Clearinghouse standards.

Tax 11.69 (2) (h), relating to sales of personalized imprinted checks, is renumbered s. Tax 11.69 (3) (g) and amended to:

a. Reflect Legislative Council Rules Clearinghouse standards.

b. Reflect the Department's position that a financial institution will not be considered the retailer of checks where the check printer sets the price for the checks, provides the order forms for the checks and invoices or bills the customer for the checks, even though the financial institution collects the order from the customer, charges the customer's account on behalf of the check printer and remits the amount charged to the account to the check printer.

Tax 11.69 (3) (a) and (b), relating to purchases by financial institutions, are renumbered s. Tax 11.69 (4) (a) and (b) and amended to:

a. Reflect Legislative Council Rules Clearinghouse standards.

b. Reflect the Department's position that a financial institution may not purchase for resale items it will give to customers without charge. Items sold for an amount below cost may be purchased without tax because they are resold.

Tax 11.69 (4), relating to the definition of financial institution, is renumbered s. Tax 11.69 (1) and amended to add savings banks to the definition and to reflect Legislative Council Rules Clearinghouse standards.

SECTION 3. Tax 11.69 (4) (c), relating to purchases for resale, is created to address purchases for resale. This was previously addressed in Tax 11.69 (3) (b), prior to its renumbering and amending.

SECTION 4. Tax 11.69 (5) (a), relating to sales to certain financial institutions, is amended to clarify that sales for resale are not taxable, and to include savings banks in the listing of financial institutions.

Text of Rule

SECTION 1. Tax 11.69 (title) is amended to read:

Tax 11.69 Financial institutions. (ss. 77.51 (13) (a), (14) (intro.) and (k) and 77.52 (1) and (2) (a) 9, Stats.)

SECTION 2. Tax 11.69 (1), (2) (title), (intro.), (a), (b), (c), (d), (e), (f), (g) and (h), (3) (title), (a), (b) and (c) and (4) are renumbered s. Tax 11.69 (2), (3) (title), (intro.), (b), (d), (c), (e), (h), (f), (a) and (g), (4) (title), (a), (b) and (d) and (l), and, as renumbered, s. Tax 11.69 (1), (2), (3) (g) and (4) (a), (b) and (d) are amended to read:

Tax 11.69 (1) DEFINITION. In this rule section, "financial institution" includes a bank, savings and loan association and savings bank or credit union.

(2) EXEMPT SALES. Financial institutions are primarily engaged in providing nontaxable services. Such Those services include charges to customers for cashier's checks, money orders, traveler's checks, checking accounts and the use of safe deposit boxes.

(3) (g) Personalized imprinted checks, except where the financial institution has paid the tax on its purchases of such checks from a retailer and the financial institution resells the checks to customers at

the same price or a price lower than its purchase price check printer is the retailer of the checks to customers. A check printer is the retailer of checks where it sets the price for the checks, provides the order forms for the checks and invoices or bills the customer for the checks, even though the financial institution collects the order from the customer, charges the customer's account on behalf of the check printer and remits the amount due from the account to the check printer.

(4) (a) A financial institution's purchases subject to sales or use tax include office furniture and equipment (such as desks, chairs, couches, writing tables and office machines), safe deposit boxes, drive-up and walk-up windows, night depository equipment, vault doors, remote TV auto teller systems and camera security equipment.

(b) Any tangible personal property purchased by a financial institution to be given away ~~or sold at cost or less than cost~~ to a customer, whether or not based upon the amount of a deposit, is taxable at the time it is purchased. This property includes calendars, playing cards, plat books, maps and any other items transferred to customers to promote business. Checking account and savings account forms provided to customers free of charge are also subject to the tax. ~~When such items are sold by a financial institution at a price in excess of cost, the financial institution is a retailer and shall report the sales tax on such sales. The financial institution may purchase such property without tax by giving its supplier a properly completed resale certificate when acting as a retailer.~~

(d) If a financial institution is not required to have a seller's permit and has a use tax obligation because purchases are made without tax, it shall apply for a consumers' use tax registration certificate and report the tax on ~~such~~ the purchases.

SECTION 3. Tax 11.69 (4) (c) is created to read:

Tax 11.69 (4) (c) Purchases of tangible personal property that the financial institution will resell, rather than give away, may be purchased without tax by giving its supplier a properly completed resale certificate.

SECTION 4. Tax 11.69 (5) (a) is amended to read:

Tax 11.69 (5) (a) Sales to state chartered credit unions, and to federal and state chartered banks ~~and~~, savings and loan associations ~~and savings banks~~ are taxable, unless resold by the credit union, bank, savings and loan association or savings bank.

Initial Regulatory Flexibility Analysis

The proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Fiscal Estimate

The rule order updates the Department of Revenue's administrative code with respect to the sales and use tax treatment of sales and purchases by financial institutions. The rule reflects the Department's current position regarding services provided by financial institutions, clarifies existing language, and makes changes in style and format to conform with Legislative Council Rules Clearinghouse standards. These changes do not have a fiscal effect.

Notice of Hearing

Commissioner of Savings and Loan (Savings Banks)

Notice is hereby given that pursuant to s. 215.02 (7) (a), Stats., the Office of the Commissioner of Savings and Loan will hold a public hearing at the time and place indicated below, to consider amending s. SB 3.06 (1) (e), relating to increasing the maximum commercial loan aggregate which is authorized for an outside director.

Hearing Information

June 18, 1996
Tuesday
At 10:00 a.m.

Suite 202
Office of Comm. of Sav. & Loan
4785 Hayes Rd.
MADISON, WI

Analysis Prepared By The Office of the Commissioner of Savings and Loan

Statutory authority: s. 214.715 (1) (d)

Statutes interpreted: ss. 214.335 and 214.345

Under current rule, a savings bank may extend credit for commercial purposes to an affiliated person (ex., a director, officer or controlling person; see s. 214.01 (2), Stats.) up to an aggregate of \$100,000.

This rule increases the maximum aggregate loan for commercial purposes to an "outside director" (i.e., a director who is not a savings bank employee), to the greater of \$100,000 or 10% of the savings bank's net worth but not greater than \$2,500,000.

Other conditions applicable to extending credit to all affiliated persons continue to apply. For example, the credit shall not involve more than the normal risk of collectibility or present other unfavorable features; and it shall be at terms, amount and interest rate substantially the same as those prevailing at the same time for comparable loans made to members of the general public.

Fiscal Estimate

This rule will have no fiscal impact on the Office of the Commissioner of Savings and Loan. The required reviews of loans to outside directors will be done with existing personnel and resources.

Initial Regulatory Flexibility Analysis

This rule will provide all savings banks' outside directors — including savings banks covered by the definition of "small business" under s. 227.114 (1) (a), Stats. — with the maximum commercial loan authorization. Exempting small businesses from this rule would be contrary to the rule's objectives which are to encourage high-calibre people to serve as outside directors of savings banks.

Text of Rule

SECTION 1. SB 3.06 (1) (e) is amended to read:

SB 3.06 (1) (e) A savings bank may extend credit for commercial purposes to an affiliated person which may not exceed an aggregate of \$100,000 except that the maximum for a director who is not employed by the savings bank may be the greater of \$100,000 or 10% of the savings bank's net worth but not greater than \$2,500,000. This extension of credit shall not involve more than the normal risk of collectibility or present other unfavorable features, and shall be at terms, amount, and interest rate substantially the same as those prevailing at the same time for comparable loans made to members of the general public of similar credit status. A savings bank shall comply with par. (d) with respect to any extensions of commercial credit exceeding an aggregate amount of \$10,000. A savings bank shall, at the time of approval by the board of directors, notify the commissioner of the transaction and all other outstanding extensions of commercial credit to the affiliated person.

Notice of Hearing

Commissioner of Savings and Loan (Savings Banks)

Notice is hereby given that pursuant to s. 214.715 (1) (d), Stats., the Office of the Commissioner of Savings and Loan will hold a public hearing at the time and place indicated below to consider amending s. SB 3.08 (4) (e), relating to the definition of "primary liquid assets" in the liquidity rule for savings banks.

Hearing Information

June 18, 1996
Tuesday
At 10:00 a.m.

Suite 202
Office of Comm. of Sav. & Loan
4785 Hayes Rd.
MADISON, WI

Analysis Prepared By The Office of the Commissioner of Savings and Loan

Statutory authority: s. 214.715 (1) (d)

Statute interpreted: s. 214.715 (1) (d)

This rule makes a minor adjustment to the definition of "primary liquid assets" in the liquidity rule for savings banks which became effective on April 1, 1996. In the definition of "primary liquid assets", this rule specifies that included should be accrued interest receivable from specified commercial paper, bankers acceptances and shares in open-end investment funds.

Fiscal Estimate

This rule will have no fiscal impact on the Office of the Commissioner of Savings and Loan. The required reviews of a savings bank's compliance with this rule will be done with existing personnel and resources.

Initial Regulatory Flexibility Analysis

This rule will provide all savings banks — including savings banks covered by the definition of "small business" under s. 227.114 (1) (a), Stats. — with the requirement of maintaining sufficient liquidity to meet cash demands. Exempting small businesses from this rule would be contrary to this objective of the rule.

Text of Rule

SECTION 1. SB 3.08 (4) (e) is amended to read:

SB 3.08 (4) (e) Accrued interest receivable on any item in par. (a), (b) or (c), (f), (g) or (h).

Notice of Hearing

Transportation, Dept. of

Notice is hereby given that pursuant to ss. 85.16, 227.11, and 343.02, 343.305 (11), Stats., the Department of Transportation will hold a public hearing at the time and place indicated below, to consider the revision of ch. Trans 107, Wis. Adm. Code, relating to driver licensing of persons with chemical abuse or dependency problems.

Hearing Information

June 19, 1996
Wednesday
At 1:30 p.m.

Room 88
Hill Farms State Trans. Bldg.
4802 Sheboygan Ave.
MADISON, WI

Parking for people with disabilities and an accessible entrance are available on the north and south sides of the Hill Farms State Transportation Building.

Written Comments

The public record on this proposed rule-making will be held open until **June 26, 1996**, to permit the submission of written comments

from people unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such written comments should be submitted to:

Wes Geringer
Bureau of Driver Services, Room 351
Department of Transportation
P. O. Box 7920
Madison, WI 53707-7920

Copies of Proposed Rule

A copy of the proposed rule may be obtained, without cost, upon request from:

Bureau of Driver Services
Telephone (608) 266-2233
Division of Motor Vehicles
P. O. Box 7920
Madison, WI 53707-7920

For further information, contact Karen Smith, (608) 264-7143 or Linda Sunstad, (608) 266-0194. Hearing-impaired individuals may contact the Department using TDD (608) 266-0396. Alternate formats of the proposed rule will be provided to individuals at their request.

Analysis Prepared by the Wisconsin Department of Transportation

Statutory Authority: ss. 85.16, 227.11, and 343.02, and 343.305 (11)

Statutes Interpreted: ss. 343.16, 343.30 (1q) and 343.305

General Summary of Proposed Rule

This rule is proposed to implement statutory changes enacted in 1995 Wis. Act 27, which provide for revocation of driver licenses based upon non-payment of the fee imposed for a driver safety plan required by a court-ordered assessment.

Fiscal Estimate

The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, technical college district or sewerage district.

Initial Regulatory Flexibility Analysis

This proposed rule will have no adverse impact on small businesses.

***NOTICE OF SUBMISSION OF PROPOSED RULES TO THE PRESIDING OFFICER OF
EACH HOUSE OF THE LEGISLATURE, UNDER S. 227.19, STATS.***

Please check the Bulletin of Proceedings for further information on a particular rule.

Banking, Office of the Commissioner of (CR 96–68):

S. Bkg 80.25 – Relating to open end credit maximum periodic rates and licensed lenders under s. 138.09, Stats.

State Emergency Response Board (CR 96–35):

Ch. ERB 1 – Relating to temporary construction facility hazardous chemical inventory reporting.

Employment Relations (CR 96–51):

S. ER 29.03 (8) (bm) – Relating to the rate of pay as a result of voluntary demotions by employees who are notified they may be subject to layoff.

Health & Social Services (CR 94–203):

Ch. HSS 40 and s. HSS 61.81 – Relating to mental health day treatment services for children and adolescents.

Health & Social Services (CR 94–204):

Ch. HSS 38 – Relating to treatment foster care for children.

Health & Social Services (CR 96–8):

S. HSS 124.20 (5) (i) 8 – Relating to the administration of labor-inducing agents in hospitals.

Natural Resources (CR 94–183):

Ch. NR 113 – Relating to servicing septic or holding tanks.

Natural Resources (CR 95–47):

Ch. NR 44 – Relating to master planning and the management and recreational use classification system for lands managed by the Department of Natural Resources.

Natural Resources (CR 95–222):

Subch. VII of ch. NR 51 – Relating to heritage state park and forest trust grants.

Revenue (CR 96–58):

Ch. Tax 18 – Relating to assessment of agricultural land in 1996 and 1997.

Securities, Office of the Commissioner of (CR 96–65):

S. SEC 2.01 – Relating to designating the Chicago stock exchange under s. 551.22 (7), Stats.

Transportation (CR 96–43):

S. Trans 6.04 (1) (e) – Relating to administration of the federal section 18 program.

Veterans Affairs (CR 96–46):

Ch. VA 14 – Relating to the establishment of fees for burial at state veterans cemeteries.

ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

The following administrative rules have been filed with the Revisor of Statutes Bureau and are in the process of being published. The date assigned to each rule is the projected effective date. It is possible that the publication of these rules could be delayed. Contact the Revisor of Statutes Bureau at (608) 266-7275 for updated information on the effective dates for the listed rules.

Dentistry Examining Board (CR 95-218):

An order amending ss. DE 2.03 (1) (intro.) and (2) and 5.02 (18), relating to the statutory renewal dates for licenses, and to provide the correct citation relating to records which must be kept by dentists for controlled substances.

Effective 07-01-96.

Funeral Directors Examining Board (CR 95-63):

An order affecting ss. FD 2.04, 2.10 and 2.13, relating to discrimination, sanitation and confidentiality.

Effective 07-01-96.

Health & Social Services (CR 95-113):

An order affecting ch. HSS 94 and s. HSS 96.04, relating to the rights of patients receiving treatment for mental illness, a developmental disability, alcohol abuse or dependency or other drug abuse or dependency, and standards for grievance procedures for these patients.

Effective 07-01-96.

Health & Social Services (CR 95-198):

An order creating ch. HSS 182, relating to grants for prevention of lead poisoning or exposure to lead.

Effective 07-01-96.

Insurance, Office of the Commissioner of (CR 96-10):

An order creating s. Ins 18.13 (5), relating to creating a network of providers for the Health Insurance Risk-Sharing Plan (HIRSP) who will provide services at a discount greater than that which is already mandated by statute.

Effective 07-01-96.

Insurance, Office of the Commissioner of (CR 96-11):

An order repealing and recreating s. Ins 18.07 (5) (b) and (bg) 1 and 2, relating to 1996-97 premium rates for the Health Insurance Risk-Sharing Plan (HIRSP).

Effective 07-01-96.

Medical Examining Board (CR 95-173):

An order repealing s. Med 4.03 and amending s. Med 4.06, relating to expiration and renewal of temporary camp or locum tenens licenses.

Effective 07-01-96.

Natural Resources (CR 95-12):

An order creating ch. NR 323, relating to bird nesting and similar habitat structures in navigable waters.

Effective 07-01-96.

Natural Resources (CR 95-149):

An order creating ss. NR 116.03 (1e), (1s) and (30m), 116.12 (2m) and 116.13 (3m), relating to regulating camping in floodplain areas.

Effective 07-01-96.

Natural Resources (CR 95-192):

An order affecting the chs. NR 400 series, relating to revision of the definition of volatile organic compound (VOC), and to updating, clarification and corrective changes throughout the chs. NR 400 series.

Part effective 07-01-96.

Part effective 08-01-96.

Railroads, Office of the Commissioner of (CR 96-25):

An order affecting chs. OCT 1 to 7 and chs. RR 1 to 4, relating to the name and subject jurisdiction of the Office of the Commissioner of Railroads.

Effective 06-01-96.

Regulation & Licensing (CR 95-205):

An order creating ch. RL 127, relating to the sale of real estate at an auction.

Effective 07-01-96.

Revenue (CR 95-209):

An order amending s. Tax 12.07 (2) (b), relating to assessor certification for municipalities in Kenosha County.

Effective 07-01-96.

Transportation (CR 96-4):

An order affecting ch. Trans 112, relating to medical standards for driver licensing.

Effective 07-01-96.

RULES PUBLISHED IN THIS WIS. ADM. REGISTER

The following administrative rule orders have been adopted and published in the May 31, 1996 Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code, and also to the subscribers of the specific affected Code.

For subscription information, contact Document Sales at (608) 266-3358.

Health & Social Services (CR 95-143):

An order repealing and recreating ss. HSS 110.01 to 110.10, relating to licensing of ambulance service providers, licensing of emergency medical technicians-basic (EMT's-Basic), and certification of emergency medical technicians-basic to perform defibrillation.

Effective 06-01-96.

Health & Social Services (CR 95-180):

An order repealing and recreating ch. HSS 230, relating to county relief programs funded by block grants.

Effective 06-01-96.

Health & Social Services (CR 95-182):

An order repealing and recreating ch. HSS 211, relating to tribal medical relief programs funded by block grants.

Effective 06-01-96.

Health & Social Services (CR 95-208):

An order amending s. HSS 73.01 and creating ss. HSS 73.03 (3m) and (8m) and 73.10, relating to conditions of hardship for granting an exception to a limitation on funding for Community-Based Residential Facility (CBRF) care in the case of a person initially applying for long-term community support services under the Community Options Program (COP) or a Medical Assistance (MA) home and community-based waiver (COP-waiver or CIP-II).

Effective 06-01-96.

Health & Social Services (CR 95-220):

An order affecting ss. HSS 122.06 and 122.07, relating to prior review of projects to demonstrate the worth of new nursing home designs.

Effective 06-01-96.

Industry, Labor & Human Relations (CR 93-32):

An order creating s. ILHR 83.035, relating to petitions for variance and private sewage systems.

Effective 06-01-96.

Industry, Labor & Human Relations (CR 93-33):

An order amending s. ILHR 83.23, relating to mound type private sewage systems.

Effective 06-01-96.

Industry, Labor & Human Relations (CR 95-183):

An order affecting ss. ILHR 48.01 and 48.10, relating to labeling of oxygenated fuels.

Effective 06-01-96.

Natural Resources (CR 95-191):

An order affecting ss. NR 20.03, 20.04, 20.07, 21.06, 21.11, 22.06, 22.11, 23.05, 26.01, 26.08, 26.09 and 26.21, relating to sport and commercial fishing and fish refuges.

Effective 06-01-96.

Natural Resources (CR 96-16):

An order repealing and recreating s. NR 10.32, relating to the duck zone boundary for migratory game bird hunting.

Effective 06-01-96.

Personnel Commission (CR 95-176):

An order affecting ss. PC 1.01, 3.02, 3.03 and 3.04, relating to fee payments for appeals.

Effective 06-01-96.

Personnel Commission (CR 95-177):

An order affecting chs. PC 1 and 2 and ss. PC 3.01, 4.02, 4.05 and 5.05, relating to updated information about the Commission's jurisdiction over appeals and complaints, and the procedures followed by the Commission.

Effective 06-01-96.

Personnel Commission (CR 95-178):

An order amending ss. PC 1.01 and 1.07 and affecting ch. PC 6, relating to appeals held by arbitration hearing.

Effective 06-01-96.

Public Instruction (CR 95-157):

An order affecting ss. PI 3.03, 3.39, 3.55, 3.57, 3.58 and 4.08, relating to substitute teacher permits, special education program aide licenses, principal licenses and general education components.

Effective 06-01-96.

Public Instruction (CR 95-203):

An order affecting ss. PI 35.03 and 35.06, relating to the Milwaukee parental private school choice program.

Effective 06-01-96.

Railroads, Office of the Commissioner of (CR 95-118):

An order affecting ss. OCT 5.02, 5.03, 5.04, 5.07 and 5.10, relating to adequate revenue, rate effectiveness, early implementation of tariffs and agency procedures.

Effective 06-01-96.

Railroads, Office of the Commissioner of (CR 96-25):

An order affecting chs. OCT 1 to 7 and chs. RR 1 to 4, relating to the name and subject jurisdiction of the Office of the Commissioner of Railroads.

Effective 06-01-96.

Regulation & Licensing (CR 95-141):

An order affecting s. RL 10.04, relating to examination requirements for optometrists to obtain Diagnostic Pharmaceutical Agent (DPA) certificates.

Effective 06-01-96.

Revenue (CR 95-169):

An order affecting ss. Tax 2.09, 2.105, 2.12 and 3.94, relating to:

- 1) Claims for refund;
- 2) The reproduction of franchise or income tax forms;
- 3) Notices of federal audit adjustments and federal or other states' amended returns; and
- 4) Amended Wisconsin returns.

Effective 06-01-96.

Revenue (CR 95-202):

An order creating s. Tax 2.31, relating to compensation of nonresident members of professional athletic teams.

Effective 06-01-96.

University of Wisconsin (CR 95-95):

An order repealing and recreating ch. UWS 17, relating to
student nonacademic disciplinary procedures.

Effective 09-01-96.

FINAL REGULATORY FLEXIBILITY ANALYSES

Health & Social Services (CR 95-143)

SS. HSS 110.01 to 110.10 – Relating to licensing of ambulance service providers, licensing of emergency medical technicians–basic (EMT’s–basic) and to certification of EMT’s–basic to perform defibrillation.

Summary of Final Regulatory Flexibility Analysis

These rules will not have a significant economic impact on a substantial number of small businesses as “small business” is defined in s. 227.114 (1) (a), Stats. Although there are some 450 ambulance service providers, only about 25 of them are small businesses. Moreover, the rule changes only involve moving authorized actions of EMT’s–basic from the statutes to the rules, and generally updating the rules. There are no new reporting or bookkeeping requirements for ambulance service providers.

Summary of Comments

No comments were reported.

Health & Social Services (CR 95-180)

Ch. HSS 230 – Relating to county relief programs funded by block grants.

Summary of Final Regulatory Flexibility Analysis

These rules apply to counties that choose to have a county relief block grant program under subch. II of ch. 49, Stats., as affected by 1995 Wis. Act 27. The rules will not directly affect small businesses as “small business” is defined in s. 227.114 (1) (a), Stats.

Summary of Comments

No comments were reported.

Health & Social Services (CR 95-182)

Ch. HSS 211 – Relating to tribal medical relief programs funded by block grants.

Summary of Final Regulatory Flexibility Analysis

These rules apply to tribes that choose to have a medical relief block grant program under subch. II of ch. 49, Stats., as affected by 1995 Wis. Act 27. The rules will not directly affect small businesses as “small business” is defined in s. 227.114 (1) (a), Stats.

Summary of Comments

No comments were reported.

Health & Social Services (CR 95-208)

SS. HSS 73.01, 73.03 and 73.10 – Relating to conditions of hardship for granting an exception to limits on use of community long–term support funds to pay for services for residents of community–based residential facilities (CBRF’s).

Summary of Final Regulatory Flexibility Analysis

The rules will not directly affect small businesses as “small business” is defined in s. 227.114 (1) (a), Stats. They apply to county departments that administer the Community Options Program (COP) under s. 46.27, Stats., and to county departments and private non–profit agencies with which the Department contracts to provide home and community–based services under a Medical Assistance (MA) waiver.

Summary of Comments

No comments were reported.

Health & Social Services (CR 95-220)

SS. HSS 122.06 & 122.07 – Relating to review of construction projects that propose to demonstrate the worth of new nursing home designs.

Summary of Final Regulatory Flexibility Analysis

These rules will not affect small businesses as “small business” is defined in s. 227.114 (1) (a), Stats. About 90 nursing homes are small businesses, but a project home must have 60 or more beds, which means that it would not likely meet the small business criterion of having fewer than 25 full–time employees.

Summary of Comments

No comments were reported.

Industry, Labor & Human Relations (CR 93-32)

S. ILHR 83.035 – Relating to petitions for variance and private sewage systems.

Summary of Final Regulatory Flexibility Analysis

The rules clarify that persons have ability to submit for consideration to the Department petitions for variance relative to rules governing the design or installation of new private sewage systems. The rules for private sewage systems are contained in the plumbing code, which is a statutorily state–wide uniform code. A petition for variance will be approved or denied by the Department, based upon whether the proposed alternatives offered under petition are deemed to be equivalent to the purpose of the rule being petitioned.

Summary of Comments of Legislative Standing Committees

The rule was referred to the Assembly Committee on Natural Resources and the Senate Committee on Human Resources, Labor, Tourism, Veterans and Military Affairs.

The Assembly Committee on Natural Resources indicates that it will be monitoring closely the Department’s actions, specifically, the comprehensive rewrite of chapter ILHR 83. The committee would like to be kept apprised of petition approvals. The committee also asks the Department to take a leadership role in seeking land use solutions in light of the potential effects of the rules.

Industry, Labor & Human Relations (CR 93-33)

S. ILHR 83.23 – Relating to mound type private sewage systems.

Summary of Final Regulatory Flexibility Analysis

Sections 145.02 and 145.13, Stats., give the Department the responsibility of safeguarding public health by establishing uniform standards for the design, installation and maintenance of all plumbing, regardless of size of a business or building. The rules to be incorporated into the plumbing code, chs. ILHR 81-87, are minimum requirements supplementing existing rules for design and installation of mound-type private sewage systems which provide the needed level of health protection; exceptions from compliance would be contrary to the statutory objectives which are the basis for the rules.

Summary of Comments of Legislative Standing Committees

The rule was referred to the Assembly Committee on Natural Resources and the Senate Committee on Human Resources, Labor, Tourism, Veterans and Military Affairs.

The Assembly Committee on Natural Resources indicates that it will be monitoring closely the Department's actions, specifically, the comprehensive rewrite of chapter ILHR 83. The committee would like to be kept apprised of petition approvals. The committee also asks the Department to take a leadership role in seeking land use solutions in light of the potential effects of the rules.

Industry, Labor & Human Relations (CR 95-183)

Ch. ILHR 48 – Relating to labeling of oxygenated fuels.

Summary of Final Regulatory Flexibility Analysis

Sections 168.11 (1) (b), Stats., is specific as to when and how to label oxygenated fuels. The rules closely follow the statute. Businesses will be required to label oxygenated fuels that they offer for retail sale. Labels are available from the Department at no cost.

Summary of Comments of Legislative Standing Committees

The rule was referred to the Assembly Committee on Environment and Utilities and the Senate Committee on Human Resources, Labor, Tourism, Veterans and Military Affairs.

No comments were received.

Natural Resources (CR 95-191)

Chs. NR 20, 21, 22, 23 and 26 – Relating to sport and commercial fishing and fish refuges.

Summary of Final Regulatory Flexibility Analysis

The rules will not have a direct financial impact on small business; therefore, no final regulatory flexibility analysis is required.

Summary of Comments of Legislative Review Committees

The rules were reviewed by the Assembly Committee on Tourism and Recreation and the Senate Committee on Environment and Energy. There were no comments.

Natural Resources (CR 96-16)

Ch. NR 10 – Relating to duck zone boundary for migratory game bird hunting.

Summary of Final Regulatory Flexibility Analysis

The rules are applicable to individual sportpersons; therefore, a final regulatory flexibility analysis is not required.

Summary of Comments of Legislative Review Committees

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment and Energy. There were no comments.

Personnel Commission (CR 95-176)

SS. PC 1.01 and 3.01 – Relating to fee payments for appeals.

Summary of Final Regulatory Flexibility Analysis

This rule will have no effect on small businesses.

Summary of Comments

No comments were reported.

Personnel Commission (CR 95-177)

Chs. PC 1 to 5 – Relating to updated information about the Commission's jurisdiction over appeals and complaints, and to the procedures followed by the Commission.

Summary of Final Regulatory Flexibility Analysis

This rule will have no effect on small businesses.

Summary of Comments

No comments were reported.

Personnel Commission (CR 95-178)

SS. PC 1.01 and 1.07 and ch. PC 6 – Relating to appeals held by arbitration hearing.

Summary of Final Regulatory Flexibility Analysis

This rule will have no effect on small businesses.

Summary of Comments

No comments were reported.

Public Instruction (CR 95-157)

Chs. PI 3 and 4 – Relating to substitute teacher permits, special education program aide licenses, principal licenses and general education components.

Summary of Final Regulatory Flexibility Analysis

This rule will have no effect on small businesses.

Summary of Comments

No comments were reported.

Public Instruction (CR 95-203)

Ch. PI 35 – Relating to random selection, fees, and transportation requirements relating to the private school choice program.

Summary of Final Regulatory Flexibility Analysis

The proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

Summary of Comments

No comments were reported.

Railroads, Office of the Commissioner of (CR 95-118)

SS. OCT 5.02, 5.03, 5.04, 5.07 and 5.10 – Relating to adequate revenue, rate effectiveness, early implementation of tariffs and agency procedures.

Summary of Final Regulatory Flexibility Analysis

These rule changes will not affect small business.

Summary of Comments

No comments were reported.

Railroads, Office of the Commissioner of (CR 96-25)

Chs. OCT 1 to 7 and chs. RR 1 to 4 – Relating to the name and subject jurisdiction of the Office of the Commissioner of Railroads.

Summary of Final Regulatory Flexibility Analysis

These rule changes will not affect small business.

Summary of Comments

No comments were reported.

Regulation & Licensing (CR 95-141)

S. RL 10.04 – Relating to examination requirements for optometrists to obtain diagnostic pharmaceutical agent (DPA) certificates.

Summary of Final Regulatory Flexibility Analysis

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

Summary of Comments

No comments were reported.

Revenue (CR 95-169)

SS. Tax 2.09, 2.105, 2.12 and 3.94 – Relating to:

- 1) Claims for refund;
- 2) The reproduction of franchise or income tax forms;
- 3) Notices of federal audit adjustments and federal or other states' amended returns; and
- 4) Amended Wisconsin returns.

Summary of Final Regulatory Flexibility Analysis

The proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Summary of Comments

No comments were reported.

Revenue (CR 95-202)

S. Tax 2.31 – Relating to compensation of nonresident members of professional athletic teams.

Summary of Final Regulatory Flexibility Analysis

The proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Summary of Comments

No comments were reported.

EXECUTIVE ORDERS

Executive Order 279. Relating to the Suspension of James F. Blask as District Attorney of Lincoln County.

Executive Order 280. Relating to Issuance of General Obligation Bonds for the Veterans Home Loan Program and Appointment of Hearing Officer.

Executive Order 281. Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for Peace Officers Who Have Given Their Lives in the Line of Duty.

Executive Order 282. Relating to the Creation of the Governor's Blue Ribbon Commission on Mental Health Care.

PUBLIC NOTICES

Public Notice **Health & Social Services** **(Medical Assistance Reimbursement of** **Providers of Home Health Services)**

The State of Wisconsin reimburses providers for home health services provided to Medical Assistance recipients. This is done under the authority of Title XIX of the Federal Social Security Act and ss. 49.43 and 49.47, Wisconsin Statutes. This program, administered by the State's Department of Health and Social Services, is called Medical Assistance (MA) or Medicaid. Federal statutes and regulations require that a state plan be developed that provides the methods and standards for reimbursement of covered services. A plan that describes the reimbursement system for the services (methods and standards for reimbursement) is now in effect.

Effective for services provided on or after **June 1, 1996**, the Department may modify the reimbursement methodology for home health services so that the rates of reimbursement equal the amount of the agency's usual and customary charges up to, but not exceeding, the Medicaid maximum allowable fees. This change implements provisions in a bill currently under consideration by the Legislature and will be modified if necessary to reflect the final statutory language.

This modification is estimated to increase expenditures in state fiscal year 1996 by \$250,000 (\$100,700 state funds and \$149,300 federal funds) and in state fiscal year 1997 by \$1,976, 200 (\$797,000 state funds and \$1,179,200 federal funds).

Copies of Proposed Change

Copies of the proposed change will be sent to every county social services or human services department main office where they will be available for public review. For more information and copies of the proposed change, interested people may write to:

State Plan Coordinator
Bureau of Health Care Financing
Division of Health
P.O. Box 309
Madison, WI 53701-0309

Written Comments

Written comments on the proposed change are welcome, and should be sent to the above address. Comments received on the change will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. daily at:

Bureau of Health Care Financing
Room 250, State Office Building
One West Wilson Street
Madison, WI

Public Notice **Health & Social Services** **(Medical Assistance Reimbursement of Providers of Drugs)**

The State of Wisconsin reimburses providers for drugs provided to Medical Assistance (MA) recipients. This is done under the authority of Title XIX of the Federal Social Security Act and ss. 49.43 to 49.47, Wisconsin Statutes. This program, administered by the State's Department of Health and Social Services, is called Medical Assistance (MA) or Medicaid. Federal statutes and regulations require that a state plan be developed that provides the methods and standards for reimbursement of covered services. A plan that describes the reimbursement system for the services (methods and standards for reimbursement) is now in effect.

The Department will modify the reimbursement methodology for drugs effective **June 1, 1996** so that the estimated acquisition cost of legend drugs will be determined based on the following:

1. Estimated acquisition cost for generic drugs and all multiple source drugs included in Addendum A of the Federal Upper Limits List will be determined by the Department such that total expenditures do not exceed the federal aggregate limit for these drugs.
2. Estimated acquisition cost for drugs where manufacturers make drug products directly available in reasonable volume to all pharmacies may be determined at the direct price, except for schedule II controlled substances which will be determined at the undiscounted average wholesale price as listed in the First Data Bank Blue Book.
3. Estimated acquisition cost for other drugs will be based on the Department's determination of the price generally and currently paid by providers for each drug sold by a particular manufacturer or labeler in the package size most frequently purchased by providers. This will be determined by applying a ten percent (10%) discount to the average wholesale price as listed in the First Data Bank Blue Book, except for schedule II controlled substances, which will be determined at the undiscounted average wholesale price.

Copies of the Proposed Change

Copies of the proposed change will be sent to every county social services or human services department main office where they will be available for public review. For more information, interested people may write to:

State Plan Coordinator
Bureau of Health Care Financing
Division of Health
P.O. Box 309
Madison, WI 53701-0309

Written Comments

Written comments on the proposed change are welcome, and should be sent to the above address. Comments received on the change will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. daily at:

Bureau of Health Care Financing
Room 250, State Office Building
One West Wilson Street
Madison, WI

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